

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

In the Matter of the Accusation Against:

Case No. 3786

**NOU CHAI THAO**  
P.O. Box 233465  
Sacramento, CA 95823

Pharmacy Technician License No. TCH 78290

Respondent.

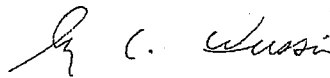
**DECISION AND ORDER**

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 July 27, 2011.

It is so ORDERED on June 27, 2011.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 LESLIE A. BURGERMYER  
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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 Accusation Against:

Case No. 3786

12 **NOU CHAI THAO**  
13 P. O. Box 233465  
Sacramento, CA 95823

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 Pharmacy Technician Registration  
15 Number TCH 78290

16 Respondent.

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

21 **PARTIES**

22 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy  
23 ("Board"), Department of Consumer Affairs. She brought this action solely in her official  
24 capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of  
25 California, by Leslie A. Burgermyer, Deputy Attorney General.

26 2. Respondent Nou Chai Thao ("Respondent") is representing himself in this proceeding  
27 and has chosen not to exercise his right to be represented by counsel.  
28

1           3.     On or about October 4, 2007, the Board issued Pharmacy Technician License Number  
2 TCH 78290 to Respondent. The Pharmacy Technician License was in full force and effect at all  
3 times relevant to the charges brought in Accusation No. 3786 and will expire on July 31, 2011,  
4 unless renewed.

5   **JURISDICTION**

6           4.     Accusation No. 3786 was filed before the Board and is currently pending against  
7 Respondent. The Accusation and all other statutorily required documents were properly served  
8 on Respondent on January 7, 2011. Respondent timely filed his Notice of Defense contesting the  
9 Accusation. A true and correct copy of Accusation No. 3786 is attached hereto, marked Exhibit  
10 A, and incorporated herein by this reference.

11   **ADVISEMENT AND WAIVERS**

12           5.     Respondent has carefully read, and understands the charges and allegations in  
13 Accusation No. 3786. Respondent has also carefully read, and understands the effects of this  
14 Stipulated Settlement and Disciplinary Order.

15           6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
19 the attendance of witnesses and the production of documents; the right to reconsideration and  
20 court review of an adverse Decision; and all other rights accorded by the California  
21 Administrative Procedure Act and other applicable laws.

22           7.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24   **CULPABILITY**

25           8.     Respondent admits the truth of each and every charge and allegation in Accusation  
26 No. 3786.

27           ///  
28           ///

1           9. Respondent agrees that his Pharmacy Technician License is subject to discipline and  
2 he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order  
3 below.

4                                   **RESERVATION**

5           10. The admissions made by Respondent herein are only for the purposes of this  
6 proceeding, or any other proceedings in which the Board or other professional licensing agency is  
7 involved, and shall not be admissible in any other criminal or civil proceeding.

8                                   **CONTINGENCY**

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

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

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

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

4 **DISCIPLINARY ORDER**

5 **IT IS HEREBY ORDERED** that Pharmacy Technician License Number TCH 78290  
6 issued to Respondent Nou Chai Thao ("Respondent") is REVOKED. However, the revocation is  
7 stayed and Respondent is placed on probation for four (4) years on the following terms and  
8 conditions.

9 **1. Certification Prior to Resuming Work**

10 Respondent shall be automatically suspended from working as a pharmacy technician until  
11 he or she is certified as defined by Business and Professions Code section 4202(a)(4) and  
12 provides satisfactory proof of certification to the Board. Respondent shall not resume working as  
13 a pharmacy technician until notified by the Board. Failure to achieve certification within one (1)  
14 year shall be considered a violation of probation. Respondent shall not resume working as a  
15 pharmacy technician until notified by the Board.

16 During suspension, Respondent shall not enter any pharmacy area or any portion of any  
17 other Board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
18 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
19 selection, selection of stock, manufacturing, compounding or dispensing; nor shall Respondent  
20 manage, administer, or assist any licensee of the Board. Respondent shall not have access to or  
21 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
22 substances. Respondent shall not resume work until notified by the Board.

23 Subject to the above restrictions, Respondent may continue to own or hold an interest in  
24 any licensed premises by the Board in which he or she holds an interest at the time this Decision  
25 becomes effective unless otherwise specified in this order.

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

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1           **2. Obey All Laws**

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

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

5            An arrest or issuance of a criminal complaint for violation of any provision of the  
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances  
7 laws

8            A plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
9 criminal complaint, information or indictment

10           A conviction of any crime

11           Discipline, citation, or other administrative action filed by any state or federal agency  
12 which involves respondent's pharmacy technician license or which is related to the practice of  
13 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any  
14 drug, device or controlled substance.

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

16           **3. Report to the Board**

17          Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its  
18 designee. The report shall be made either in person or in writing, as directed. Among other  
19 requirements, Respondent shall state in each report under penalty of perjury whether there has  
20 been compliance with all the terms and conditions of probation. Failure to submit timely reports  
21 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency  
22 in submission of reports as directed may be added to the total period of probation. Moreover, if  
23 the final probation report is not made as directed, probation shall be automatically extended until  
24 such time as the final report is made and accepted by the board.

25           **4. Interview with the Board**

26          Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews  
27 with the Board or its designee, at such intervals and locations as are determined by the Board or  
28 its designee. Failure to appear for any scheduled interview without prior notification to Board

1 staff, or failure to appear at two (2) or more scheduled interviews with the Board or its designee  
2 during the period of probation, shall be considered a violation of probation.

3 **5. Cooperate with Board Staff**

4 Respondent shall cooperate with the Board's inspection program and with the Board's  
5 monitoring and investigation of respondent's compliance with the terms and conditions of his  
6 probation. Failure to cooperate shall be considered a violation of probation.

7 **6. Notice to Employers**

8 During the period of probation, Respondent shall notify all present and prospective  
9 employers of the Decision in Accusation Number 3786 and the terms, conditions and restrictions  
10 imposed on Respondent by the Decision, as follows:

11 Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of  
12 respondent undertaking any new employment, respondent shall cause his direct supervisor,  
13 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's  
14 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
15 individual(s) has/have read the Decision in Accusation Number 3786 and the terms and  
16 conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s)  
17 and/or supervisor(s) submit timely acknowledgement(s) to the Board.

18 If Respondent works for or is employed by or through a pharmacy employment service,  
19 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy  
20 of the terms and conditions of the Decision in Accusation Number 3786 in advance of the  
21 Respondent commencing work at each pharmacy. A record of this notification must be provided  
22 to the Board upon request.

23 Furthermore, within thirty (30) days of the effective date of this Decision, and within fifteen  
24 (15) days of Respondent undertaking any new employment by or through a pharmacy  
25 employment service, Respondent shall cause his direct supervisor with the pharmacy employment  
26 service to report to the Board in writing acknowledging that he has read the Decision in  
27 Accusation Number 3786 and the terms and conditions imposed thereby. It shall be Respondent's

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1 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledg-  
2 ment(s) to the Board.

3 Failure to timely notify present or prospective employer(s) or to cause those employer(s) to  
4 submit timely acknowledgements to the Board shall be considered a violation of probation.

5 "Employment" within the meaning of this provision shall include any full-time, part-  
6 time, temporary or relief service or pharmacy management service as a pharmacy  
7 technician or in any position for which a pharmacy technician license is a requirement or  
8 criterion for employment, whether the respondent is considered an employee, independent  
9 contractor or volunteer.

#### 10 **7. Reimbursement of Board Costs**

11 As a condition precedent to successful completion of probation, Respondent shall pay to the  
12 board its costs of investigation and prosecution in the amount of \$1,190.00. Respondent shall  
13 make payments as determined by the Board. There shall be no deviation from this schedule  
14 absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s)  
15 as directed shall be considered a violation of probation.

16 The filing of bankruptcy by Respondent shall not relieve respondent of his responsibility to  
17 reimburse the board its costs of investigation and prosecution.

#### 18 **8. Probation Monitoring Costs**

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

#### 23 **9. Status of License**

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

27 If Respondent's pharmacy technician license expires or is cancelled by operation of law or  
28 otherwise at any time during the period of probation, including any extensions thereof due to



1 tolling or otherwise, upon renewal or reapplication Respondent's license shall be subject to all  
2 terms and conditions of this probation not previously satisfied.

3 **10. License Surrender While on Probation/Suspension**

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

12 Upon acceptance of the surrender, Respondent shall relinquish his pharmacy technician  
13 license to the Board within ten (10) days of notification by the Board that the surrender is  
14 accepted. Respondent may not re-apply for any license, permit, or registration from the Board for  
15 three (3) years from the effective date of the surrender. Respondent shall meet all requirements  
16 applicable to the license sought as of the date the application for that license is submitted to the  
17 board.

18 **11. Notification of a Change in Name, Residence Address, Mailing Address or**  
19 **Employment**

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

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

27 **12. Tolling of Probation**

28 Except during periods of suspension, respondent shall, at all times while on probation, be

1 employed as a pharmacy technician in California for a minimum of twenty (20) hours per  
2 calendar month. Any month during which this minimum is not met shall toll the period of  
3 probation, i.e., the period of probation shall be extended by one month for each month during  
4 which this minimum is not met. During any such period of tolling of probation, Respondent must  
5 nonetheless comply with all terms and conditions of probation.

6 Should Respondent, regardless of residency, for any reason (including vacation) cease  
7 working as a pharmacy technician for a minimum of twenty (20) hours per calendar month in  
8 California, respondent must notify the board in writing within ten (10) days of cessation of work  
9 and must further notify the Board in writing within ten (10) days of the resumption of the work.  
10 Any failure to provide such notification(s) shall be considered a violation of probation.

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

14 "Cessation of work" means calendar month during which Respondent is not working  
15 for at least twenty (20) hours as a pharmacy technician, as defined in Business and  
16 Professions Code section 4115. "Resumption of work" means any calendar month during  
17 which respondent is working as a pharmacy technician for at least twenty (20) hours as a  
18 pharmacy technician as defined by Business and Professions Code section 4115.

### 19 **13. Violation of Probation**

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

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

1 a petition to revoke probation or an accusation is filed against Respondent during probation, the  
2 Board shall have continuing jurisdiction, and the period of probation shall be automatically  
3 extended until the petition to revoke probation or accusation is heard and decided.

4 **14. Completion of Probation**

5 Upon written notice by the Board indicating successful completion of probation,  
6 Respondent's pharmacy technician license will be fully restored.

7 **15. No Ownership of Licensed Premises**

8 Respondent shall not own, have any legal or beneficial interest in, or service as a manager,  
9 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
10 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
11 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
12 days following the effective date of this decision and shall immediately thereafter provide written  
13 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
14 documentation thereof shall be considered a violation of probation.

15 **16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

16 Within thirty (30) days of the effective date of this Decision, Respondent shall begin  
17 regular attendance at a recognized and established substance abuse recovery support group in  
18 California, (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved  
19 by the Board or its designee. Respondent must attend at least one (1) group meeting per week  
20 unless otherwise directed by the Board or its designee. Respondent shall continue regular  
21 attendance and submit signed and dated documentation confirming attendance with each quarterly  
22 report for the duration of probation. Failure to attend or submit documentation thereof shall be  
23 considered a violation of probation.

24 **17. Random Drug Screening**

25 Respondent, at his own expense, shall participate in random testing, including but not  
26 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
27 screening program as directed by the board or its designee. Respondent may be required to  
28 participate in testing for the entire probation period and the frequency of testing will be

1 determined by the board or its designee. At all times Respondent shall fully cooperate with the  
2 Board or its designee, and shall, when directed, submit to such tests and samples for the detection  
3 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or  
4 its designee may direct. Failure to timely submit to testing as directed shall be considered a  
5 violation of probation. Upon request of the Board or its designee, Respondent shall provide  
6 documentation from a licensed practitioner that the prescription for a detected drug was  
7 legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely  
8 provide such documentation shall be considered a violation of probation. Any confirmed positive  
9 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a  
10 documented medical treatment shall be considered a violation of probation and shall result in the  
11 automatic suspension of work by respondent. Respondent may not resume work as a pharmacy  
12 technician until notified by the Board in writing.

13       During suspension, respondent shall not enter any pharmacy area or any portion of or any  
14 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
15 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
16 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
17 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
18 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
19 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
20 substances. Respondent shall not resume work until notified by the Board.

21       Respondent shall not direct, control or perform any aspect of the practice of pharmacy.  
22 Subject to the above restrictions, Respondent may continue to own or hold an interest in any  
23 licensed premises in which he holds an interest at the time this Decision becomes effective unless  
24 otherwise specified in this order.

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

26       **18. Work Site Monitor**

27       Within ten (10) days of the effective date of this Decision, Respondent shall identify a work  
28 site monitor, for prior approval by the Board, who shall be responsible for supervising respondent

1 during working hours. Respondent shall be responsible for ensuring that the work site monitor  
2 reports in writing to the Board quarterly. Should the designated work site monitor determine at  
3 any time during the probationary period that Respondent has not maintained sobriety, he shall  
4 notify the Board immediately, either orally or in writing as directed. Should Respondent change  
5 employment, a new work site monitor must be designated, for prior approval by the Board, within  
6 ten (10) days of commencing new employment. Failure to identify an acceptable initial or  
7 replacement work site monitor, or to ensure quarterly reports are submitted to the Board, shall be  
8 considered a violation of probation.

9 **19. Abstain from Drugs and Alcohol Use**

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

21 **20. Community Services Program**

22 Within sixty (60) days of the effective date of this Decision, Respondent shall submit to the  
23 Board or its designee, for prior approval, a community services program in which Respondent  
24 shall provide free health-care related services on a regular basis to a community or charitable  
25 facility or agency for at least fifty (50) hours per year for the first two (2) years of probation.  
26 Within thirty (30) days of Board approval thereof, Respondent shall submit documentation to the  
27 Board demonstrating commencement of the community service program. A record of this  
28 notification must be provided to the Board upon request. Respondent shall report on progress

1 with the community service program in the quarterly reports. Failure to timely submit,  
2 commence, or comply with the program shall be considered a violation of probation.

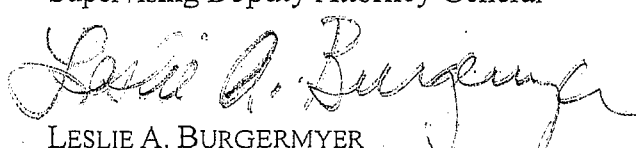
3 ACCEPTANCE

4 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
5 stipulation and the effect it will have on my Pharmacy Technician License Number TCH 78290.  
6 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and  
7 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

8  
9 DATED: 4/13/11   
10 \_\_\_\_\_  
11 NOU CHAI THAO  
12 Respondent

13 ENDORSEMENT

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

16 DATED: 4/15/11  
17 Respectfully submitted,  
18 KAMALA D. HARRIS  
19 Attorney General of California  
20 ARTHUR D. TAGGART  
21 Supervising Deputy Attorney General  
22   
23 LESLIE A. BURGERMYER  
24 Deputy Attorney General  
25 *Attorneys for Complainant*

# **Exhibit A**

**Accusation No. 3786**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 LESLIE A. BURGERMYER  
Deputy Attorney General  
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Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12 **NOU CHAI THAO**  
P. O. Box 233465  
13 Sacramento, CA 95823  
14 Pharmacy Technician Registration  
Number TCH 78290  
15 Respondent.

Case No. 3786  
**A C C U S A T I O N**

16  
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
21 2. On or about October 4, 2007, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 78290 to Nou Chai Thao ("Respondent"). The license was in full  
23 force and effect at all times relevant to the charges brought herein and will expire on July 31,  
24 2011, unless renewed.

25 **JURISDICTION**

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



1 4. Section 4300 of the Code states, in pertinent part:

2 (a) Every license issued may be suspended or revoked.

3 (b) The board shall discipline the holder of any license issued by the  
4 board, whose default has been entered or whose case has been heard by the board  
and found guilty, by any of the following methods:

5 (1) Suspending judgment.

6 (2) Placing him or her upon probation.

7 (3) Suspending his or her right to practice for a period not exceeding one  
8 year.

9 (4) Revoking his or her license.

10 (5) Taking any other action in relation to disciplining him or her as the  
board in its discretion may deem proper.

11 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
12 surrender, or cancellation of a license shall not deprive the Board/Registrar/Director of  
13 jurisdiction to proceed with a disciplinary action during the period within which the license may  
14 be renewed, restored, reissued or reinstated.

15 **STATUTORY PROVISIONS**

16 6. Section 4301 of the Code states, in pertinent part:

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

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

1 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
2 the verdict of guilty, or dismissing the accusation, information, or indictment.

3 7. Section 490 of the Code states, in pertinent part:

4 (a) In addition to any other action that a board is permitted to take against  
5 a licensee, a board may suspend or revoke a license on the ground that the licensee  
6 has been convicted of a crime, if the crime is substantially related to the  
7 qualifications, functions, or duties of the business or profession for which the  
8 license was issued.

9 (b) Notwithstanding any other provision of law, a board may exercise any  
10 authority to discipline a licensee for conviction of a crime that is independent of the  
11 authority granted under subdivision (a) only if the crime is substantially related to  
12 the qualifications, functions, or duties of the business or profession for which the  
13 licensee's license was issued.

14 (c) A conviction within the meaning of this section means a plea or verdict  
15 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  
17 when the time for appeal has elapsed, or the judgment of conviction has been  
18 affirmed on appeal, or when an order granting probation is made suspending the  
19 imposition of sentence, irrespective of a subsequent order under the provisions of  
20 Section 1203.4 of the Penal Code.

#### 21 COST RECOVERY

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

#### 26 CAUSE FOR DISCIPLINE

##### 27 (Criminal Conviction)

28 8. Respondent is subject to disciplinary action under Code sections 4300, 4301,  
subdivision (I), and 490 in that on or about January 12, 2010, he was convicted on his plea of nolo  
contendere in the case titled *People v. Nou Chai Thao*, Sacramento County Superior Court Case  
No. 09T06548 for violating Vehicle Code section 23152, subdivision (b), [driving a motor  
vehicle with a blood alcohol content (BAC) of 0.08% or more] and admitted allegations of having  
a BAC of 0.15% pursuant to Vehicle Code section 23578, a misdemeanor. Said crime is  
substantially related to the qualifications, functions, and duties of a licensed Pharmacy  
Technician. The circumstances are as follows:

///

1 a. On or about October 15, 2009, Respondent drove his motor vehicle at a high rate of  
2 speed on Northbound Watt Avenue, Sacramento. He was stopped by a law enforcement officer  
3 who observed Respondent's objective signs of alcohol intoxication. Respondent unsuccessfully  
4 performed three Field Sobriety Tests (FSTs) before he refused to perform further FSTs.  
5 Respondent submitted to a blood test which measured .19% BAC.

6 PRAYER

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

9 1. Revoking or suspending Pharmacy Technician License Number TCH 78290, issued  
10 to Nou Chai Thao;

11 2. Ordering Nou Chai Thao to pay the Board of Pharmacy the reasonable costs of the  
12 investigation and enforcement of this case, pursuant to Business and Professions Code section  
13 125.3; and,

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

15  
16 DATED: 1/4/11



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

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