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

In the Matter of the Accusation Against:  
  
**CALVINNGHIA HOANG TRIEU**  
**507 S. Euclid Street, #174**  
**Santa Ana, CA 92704**  
  
**Pharmacy Technician Registration No. TCH**  
**45518**  
  
Respondent.

Case No. 3911

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about June 6, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3911 against Calvinnghia Hoang Trieu (Respondent) before the Board of Pharmacy. (The Accusation is attached as Exhibit A.)

2. On or about October 31, 2002, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 45518 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2012, unless renewed.

3. On or about June 10, 2011, Respondent was served by Certified and First Class Mail with copies of Accusation No. 3911, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100,

1 is required to be reported and maintained with the Board, which was and is: 507 S. Euclid Street,  
2 #174, Santa Ana, CA 92704.

3 4. Service of the Accusation was effective as a matter of law under the provisions of  
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
5 124.

6 5. On or about June 15, 2011, the aforementioned documents were returned by the U.S.  
7 Postal Service marked "Forwarding Time Expired." The address on the documents was the same  
8 as the address on file with the Board. Respondent failed to maintain an updated address with the  
9 Board and the Board has made attempts to serve the Respondent at the address on file.

10 Respondent has not made himself available for service and therefore, has not availed himself of  
11 his right to file a notice of defense and appear at hearing.

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
15 of the accusation not expressly admitted. Failure to file a notice of defense shall  
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
17 may nevertheless grant a hearing.

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
20 3911.

21 8. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the  
23 hearing, the agency may take action based upon the respondent's express admissions  
24 or upon other evidence and affidavits may be used as evidence without any notice to  
25 respondent.

26 9. Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on the  
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. 3911, finds that

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1 the charges and allegations in Accusation No. 3911, are separately and severally, found to be true  
2 and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement is \$1,760.00 as of June 29, 2011.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Calvinnghia Hoang Trieu has  
8 subjected his Pharmacy Technician Registration No. TCH 45518 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
11 Registration based upon the following violations alleged in the Accusation which are supported  
12 by the evidence contained in the Default Decision Evidence Packet in this case.

13 a. Respondent is subject to disciplinary action under Business and Professions Code  
14 sections 4300 and 4301(f) for acts of dishonesty, fraud or deceit, in that on June 18, 2010, while  
15 Respondent was employed as a pharmacy technician at Walgreens Pharmacy in Garden Grove,  
16 California, he admitted to the Loss Prevention Manager that during the last two years, he had  
17 been stealing numerous amounts of prescription medication for his friends and for his own  
18 personal use. Respondent admitted to taking mostly Hydrocodone and anti-diarrhea medicine.

19 b. Respondent is subject to disciplinary action under Business and Professions Code  
20 section 4301(j) in conjunction with Health and Safety Code section 11173 for obtaining  
21 controlled substances by fraud, deceit, subterfuge or concealment of a material fact, when he stole  
22 Hydrocodone and Lomotil from the Walgreens Pharmacy.

23 c. Respondent is subject to disciplinary action under Business and Professions Code  
24 section 4301(j) for violation of Business and Professions Code section 4060 for possession of a  
25 controlled substance without a legitimate prescription, when he stole Hydrocodone and Lomotil  
26 from the Walgreens Pharmacy.

27 d. Respondent is subject to disciplinary action under Business and Professions Code  
28 section 4301(j) for violation of Health and Safety Code section 11170 for illegally furnishing

1 a controlled substance to himself when he self-administered the Hydrocodone and Lomotil he  
2 stole from the Walgreens Pharmacy.

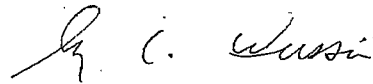
3 ORDER

4 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 45518, heretofore  
5 issued to Respondent Calvinnghia Hoang Trieu, is revoked.

6 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
7 written motion requesting that the Decision be vacated and stating the grounds relied on within  
8 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
9 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

10 This Decision shall become effective on October 19, 2011.

11 It is so ORDERED September 19, 2011.

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STANLEY C. WEISSER, BOARD PRESIDENT  
15 FOR THE BOARD OF PHARMACY  
16 DEPARTMENT OF CONSUMER AFFAIRS

17 80520172.DOC  
18 DOJ Matter ID:SD2010703333

19 Attachment:  
20 Exhibit A: Accusation

# Exhibit A

Accusation Case No. 3911

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2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

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12 In the Matter of the Accusation Against:  
13 **CALVINNGHIA HOANG TRIEU**  
507 S. Euclid Street, #174  
14 Santa Ana, CA 92704  
15 **Pharmacy Technician Registration**  
No. TCH 45518  
16 Respondent.

Case No. 3911  
**A C C U S A T I O N**

17  
18  
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
23 2. On or about October 31, 2002, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 45518 to Calvinnghia Hoang Trieu (Respondent). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on March 31, 2012, unless renewed.

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JURISDICTION

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

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

5. Section 4300 of the Code states:

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

....

STATUTORY PROVISIONS

6. Section 4301 of the Code states:

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.

....

(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

7. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

1 (c) Any other drug or device that by federal or state law can be lawfully  
dispensed only on prescription or furnished pursuant to Section 4006.

2 8. Section 4059 of the Code states, in pertinent part, that a person may not furnish any  
3 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,  
4 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any  
5 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,  
6 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

7 9. Section 4060 of the Code states:

8 No person shall possess any controlled substance, except that furnished to a  
9 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
10 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
11 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
12 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant  
13 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a  
14 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)  
of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This  
section shall not apply to the possession of any controlled substance by a  
manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
practitioner, or physician assistant, when in stock in containers correctly labeled  
with the name and address of the supplier or producer.

15 10. Health and Safety Code section 11170 states in pertinent part that no person shall  
16 prescribe, administer, or furnish a controlled substance for himself.

17 11. Health and Safety Code section 11173 states in pertinent part that no person shall  
18 obtain a controlled substance by fraud, deceit, subterfuge or concealment of a material fact.

#### 19 COSTS

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

#### 24 DRUGS

25 13. Hydrocodone is designated by Health and Safety Code section 11056(e)(4) as a  
26 narcotic drug and a Schedule III controlled substance, and by Business and Professions Code  
27 section 4022 as a dangerous drug. It is used as a narcotic analgesic in the relief of pain.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct: Possession of a Controlled Substance W/O Prescription)

3 17. Respondent is subject to disciplinary action under Code section 4301(j) in  
4 conjunction with Code section 4060 for possession of a controlled substance without a legitimate  
5 prescription, when he stole Hydrocodone and Lomotil from the Walgreens Pharmacy as more  
6 particularly alleged in paragraph 15 above and incorporated herein by reference.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 (Unprofessional Conduct: Illegal Furnishing of a Controlled Substance to Oneself)

9 18. Respondent is subject to disciplinary action under Code section 4301(j) in  
10 conjunction with Health and Safety Code section 11170 for illegally furnishing a controlled  
11 substance to himself when he self-administered the Hydrocodone and Lomotil he stole from the  
12 Walgreens Pharmacy as more particularly alleged in paragraph 15 above and incorporated herein  
13 by reference.

14 **DISCIPLINE CONSIDERATIONS**

15 19. To determine the degree of discipline, if any, to be imposed on Respondent,  
16 Complainant alleges that on or about April 13, 2010, in a prior disciplinary action against  
17 Calvinnghia Hoang Trieu before the Board of Pharmacy, in Case Number CI 2008 37129,  
18 Respondent received a Letter of Admonishment against his pharmacy technician license for  
19 engaging in unprofessional conduct in that he was convicted twice of crimes substantially related  
20 to the qualifications, functions and duties of a licensee. On August 28, 2008 and again on March  
21 17, 2009, Respondent pled guilty to two different incidents of violating Vehicle Code section  
22 23152(a), driving under the influence of alcohol, misdemeanors. Those decisions are now final  
23 and are incorporated by reference as if fully set forth.

24 **PRAYER**

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

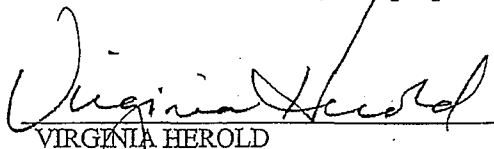
27 1. Revoking or suspending Pharmacy Technician Registration Number TCH 45518,  
28 issued to Calvinnghia Hoang Trieu;

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2. Ordering Calvinghia Hoang Trieu 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: 6/6/11



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

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