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

In the Matter of the Accusation Against:

Case No. 4324

HOAIBAO NGUYEN NGUYEN a.k.a., HOAI NAM NGUYEN a.k.a., TINA NGUYEN 6753 Meriwether Ct. Rancho Cucamonga, CA 91701

Pharmacy Technician Registration No. TCH 105756

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 21, 2014.

It is so ORDERED on July 16, 2014.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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By

STAN C. WEISSER Board President

1	KAMALA D. HARRIS Attorney General of California
2	ARMANDO ZAMBRANO
3	Supervising Deputy Attorney General CHRISTINE J. LEE
4	Deputy Attorney General State Bar No. 282502
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013
6	Telephone: (213) 897-2539 Facsimile: (213) 897-2804
7	Attorneys for Complainant
	BEFORE THE
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Accusation Against: Case No. 4324 OAH No. 2013100518
11	HOAIBAO NGUYEN NGUYEN STIPULATED SURRENDER OF
12	a.k.a., HOAI NAM NGUYEN LICENSE AND ORDER
13	a.k.a., TINA NGUYEN 6753 Meriwether Ct.
14	Rancho Cucamonga, CA 91701
15	Pharmacy Technician Registration No. TCH
16	105756
17	Respondent.
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 Kamala
23	D. Harris, Attorney General of the State of California, by Christine J. Lee, Deputy Attorney
24	General.
25	2. Hoaibao Nguyen Nguyen, also known as Hoai Nam Nguyen, and Tina Nguyen
26	(Respondent) is representing herself in this proceeding and has chosen not to exercise her right to
27	be represented by counsel.
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	I Stimulated Surrander of License (Case No. 4324)

3. On or about August 4, 2010, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 105756 to Hoaibao Nguyen Nguyen, also known as Hoai Nam Nguyen, and Tina Nguyen (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4324 and will expire on December 31, 2015, unless renewed.

JURISDICTION

Accusation No. 4324 was filed before the Board or Pharmacy (Board), Department of
Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
statutorily required documents were properly served on Respondent on September 25, 2013.
Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
No. 4324 is attached as Exhibit A and incorporated by reference.

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ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, and understands the charges and allegations in
14 Accusation No. 4324. Respondent also has carefully read, and understands the effects of this
15 Stipulated Surrender of License and Order.

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

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

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CULPABILITY

Respondent admits the truth of each and every charge and allegation in Accusation
 No. 4324, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
 Registration No. TCH 105756 for the Board's formal acceptance.

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9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacy Technician Registration without further process.

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CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent 5 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may 6 communicate directly with the Board regarding this stipulation and surrender, without notice to or 7 participation by Respondent. By signing the stipulation, Respondent understands and agrees that 8 9 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, 10 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this 11 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not 12 be disqualified from further action by having considered this matter. 13

14 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
15 copies of this Stipulated Surrender of License and Order, including Portable Document Format
16 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

<u>ORDER</u>

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 105756,
issued to Respondent Hoaibao Nguyen Nguyen, also known as Hoai Nam Nguyen, and Tina
Nguyen is surrendered and accepted by the Board of Pharmacy.

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The surrender of Respondent's Pharmacy Technician Registration and the acceptance
 of the surrendered license by the Board shall constitute the imposition of discipline against
 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
 Respondent's license history with the Board of Pharmacy.

2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California
as of the effective date of the Board's Decision and Order.

Respondent shall cause to be delivered to the Board her pocket license and, if one was
issued, her wall certificate on or before the effective date of the Decision and Order.

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4. If she ever applies for licensure or petitions for reinstatement in the State of
California, the Board shall treat it as a new application for licensure. Respondent must comply
with all the laws, regulations and procedures for licensure in effect at the time the application or
petition is filed, and all of the charges and allegations contained in Accusation No. 4324 shall be
deemed to be true, correct and admitted by Respondent when the Board determines whether to
grant or deny the application or petition.

15 5. Respondent stipulates that should she apply for any license from the board on or after
16 the effective date of this decision, investigation and prosecution costs in the amount of \$2,177.50
17 shall be paid to the board prior to issuance of the license.

If Respondent should ever apply or reapply for a new license or certification, or
 petition for reinstatement of a license, by any other health care licensing agency in the State of
 California, all of the charges and allegations contained in Accusation, No. 4324 shall be deemed
 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
 other proceeding seeking to deny or restrict licensure.

7. Respondent may not apply for any license, permit, or registration from the board for
three (3) years from the effective date of this decision. Respondent stipulates that should she
apply for any license from the board on or after the effective date of this decision, all allegations
set forth in the accusation shall be deemed to be true, correct and admitted by respondent when
the board determines whether to grant or deny the application.

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Stipulated Surrender of License (Case No. 4324)

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8. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new license. Respondent is required to report this surrender as disciplinary action,

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

06/08/14 DATED:

GUYEN NGUYEN HOAIE NAM NGUYEN aka TINA NGUYEN Respondent

ENDORSEMENT

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

Dated: 6/9/14

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Respectfully submitted,

KAMALA D. HARRIS Attorney General of California ARMANDO ZAMBRANO Supervising Deputy Attorney General

CHRISTINE J. LEE Deputy Attorney General Attorneys for Complainant

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Exhibit A

Accusation No. 4324

	, ₁
1	KAMALA D. HARRIS
2	Attorney General of California ARMANDO ZAMBRANO
3	Supervising Deputy Attorney General CHRISTINE JUNE LEE
4	Deputy Attorney General State Bar No. 282502
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013
6	Telephone: (213) 897-2539 Facsimile: (213) 897-2804
7	Attorneys for Complainant
8	BEFORE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 4324
12	HOAIBAO NGUYEN NGUYEN A C C U S A T I O N
13	a.k.a., HOAI NAM NGUYEN a.k.a., TINA NGUYEN
14	6753 Meriwether Ct. Rancho Cucamonga, CA 91701
15	Pharmacy Technician Registration No. TCH 105756
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17	Respondent.
18.	Complainant alleges:
19	PARTIES
20	1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity
21	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22	2. On or about August 4, 2010, the Board of Pharmacy ("Board") issued Pharmacy
23	Technician Registration No. TCH 105756 to Hoaibao Nguyen Nguyen, also known as Hoai Nam
24	Nguyen, and Tina Nguyen ("Respondent"). The Pharmacy Technician Registration was in full
25	force and effect at all times relevant to the charges brought herein and will expire on December
26	31, 2013, unless renewed.
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1	Accusation

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1	JURISDICTION
2	3. This Accusation is brought before the Board under the authority of the following
3	laws. All section references are to the Business and Professions Code ("Code") unless otherwise
4	indicated.
5	4. Section 4011 of the Code provides:
6	"The board shall administer and enforce this chapter [Pharmacy Law, (Business and
7	Professions Code, Sec 4000 et esq.)] and the Uniform Controlled Substances Act (Division 10
8	commencing with Section 11000) of the Health and Safety Code)."
9	5. Section 4300 of the Code states, in pertinent part, that every license issued by the
10	Board is subject to discipline, including suspension or revocation.
11	6. Section 4300.1 of the Code states, "the expiration, cancellation, forfeiture, or
12	suspension of a board-issued license by operation of law or by order or decision of the board or a
13	court of law, the placement of a license on a retired status, or the voluntary surrender of a license
14	by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
15	investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
16	suspending or revoking the license."
17	STATUTORY PROVISIONS
18	7. Section 118, subdivision (b) of the Code provides, in pertinent part, that the
19	expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary
20	action during the period within which the license may be renewed, restored, reissued or
21	reinstated.
22	8. Section 490 of the Code states, in pertinent part:
23	"(a) In addition to any other action that a board is permitted to take against a licensee, a
24	board may suspend or revoke a license on the ground that the licensee has been convicted of a
25	crime, if the crime is substantially related to the qualifications, functions, or duties of the business
26	or profession for which the license was issued.
27	"(b) Notwithstanding any other provision of law, a board may exercise any authority to
28	discipline a licensee for conviction of a crime that is independent of the authority granted under
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	Accusation

subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

- "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment 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."
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9. 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."

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

"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:

"(a) Gross immorality."

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"(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."

5 "(1) 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. . . 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."

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"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
violation of or conspiring to violate any provision or term of this chapter or of the applicable
federal and state laws and regulations governing pharmacy, including regulations established by
the board or by any other state or federal regulatory agency."

REGULATORY PROVISIONS

18 11. California Code of Regulations, title 16, section 1770, states, in pertinent part:
"For the purpose of denial, suspension, or revocation of a personal or facility license
pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
crime or act shall be considered substantially related to the qualifications, functions or duties of a
licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
licensee or registrant to perform the functions authorized by his license or registration in a manner
consistent with the public health, safety, or welfare."

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COST RECOVERY

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26 12. Section 125.3 of the Code states, in pertinent part, that the Board may request the
27 administrative law judge to direct a licentiate found to have committed a violation or violations of

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the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

13. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1770, in that, Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a pharmacy technician.

On or about December 21, 2011, after pleading guilty, Respondent was convicted of 9 a, one felony count of violating Penal Code section 484e, subdivision (d) [theft of access cards; 10 acquiring or retaining possession of access account information with respect to an access card 11 validly issued to another person, with the cardholder's or issuer's concent, with the intent to use it 12 fraudulently]; one felony count of Penal Code section 484f, subdivision (a) [forgery of access 13 cards]; one felony count of Penal Code section 502(c)(1) [unauthorized access to computers, 14 computer systems, data; knowingly access and without permission alters, damages, deletes, 15 destroys, or otherwise uses any data, computer, computer system or computer network to either 16 devise or execute any scheme ot artifice to defraud, deceive or extort or wonrgfully control obtain 17 money, property or data]; one felony count of Penal Code section 530.5, subdivision (a) 18 [unauthorized use of personal identifying information of another person and use that information 19 for an unlawful purpose without the consent of that person]; and one felony count of Penal Code 20 section 459 [burglary] in the criminal proceeding entitled The People of the State of California v. 21 22 Hoai Boanguyen Nguyen (Super. Ct. Riverside County, 2011, No. BAF10000651). The Court placed Respondent on 36 months probation and ordered her to pay \$10,842.19 in restitution. 23

b. The circumstances surrounding the conviction are that on or about May 25, 2010
through on or about July 14, 2010, Respondent willfully and unlawfully acquired and retained
access card account information issued to another person, without the cardholder's and issuer's
consent, with intent to use it fraudulently. In addition, Respondent, designed, made, altered and
embossed a counterfeit access card, and attempted to use a counterfeit access card, with the intent

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1	to defraud Jane and John Does, Casino Morongo. Respondent used such counterfeit access cards
2	to win a total of \$21,684 in cash at slot machines at Casino Morongo. Additionally, Respondent,
3	knowingly accessed and without permission altered, damaged, deleted, destroyed, or used data,
4	computer, computer system or computer network in order to devise or execute a scheme to
5	defraud, deceive, or extort, or wrongfully control or obtain money, property or data.
6	Furthermore, Respondent obtained personal credit, goods, services, and medical information in
7	the name of another person without consent. Respondent willfully and unlawfully entered a
8	building located at 49500 Seminole Dr., Cabazon, with the intent to commit a theft and felony.
9	SECOND CAUSE FOR DISCIPLINE
10	(Acts Involving Dishonesty, Fraud or Deceit)
11	14. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
12	that Respondent committed acts involving dishonesty, fraud or deceit. Complainant refers to, and
13	by this reference incorporates, the allegations set forth above in paragraph 13, as though set forth
14	fully,
15	THIRD CAUSE FOR DISCIPLINE
16	(Violation of Pharmacy Act)
17	15. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the
18	Code, on the grounds of unprofessional conduct, in that Respondent was convicted of crimes
19	substantially related to the qualifications, functions or duties of a pharmacy technician and
20	committed acts in violation of the Pharmacy Act. Complainant refers to, and by this reference
21	incorporates, the allegations set forth above in paragraphs 13 through 14, inclusive, as though set
22	forth fully.
23	PRAYER
24	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25	and that following the hearing, the Board issue a decision:
26	1. Revoking or suspending Pharmacy Technician Registration No. TCH 105756, issued
27	to Hoaibao Nguyen Nguyen, also known as Hoai Nam Nguyen, and Tina Nguyen;
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	Accusation

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Ordering Hoaibao Nguyen Nguyen, also known as Hoai Nam Nguyen, and Tina 2. Nguyen to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3 of the Code; and Taking such other and further action as deemed necessary and proper. 3. 9/6/13 DATED: VIRGINIA HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant LA2012506944 51319113.doc 8/23/13 Accusation