

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

In the Matter of the Statement of Issues Against:

Case No. 4290

**VA EUNG**

Pharmacy Technician Registration

Respondent.

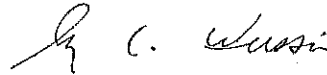
**DECISION AND ORDER**

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 February 7, 2013.

It is so ORDERED on January 8, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

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

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Attorney General of California  
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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:

12 **VA EUNG**  
13 **1646 24th Avenue**  
14 **San Francisco, CA 94122**  
15 **Pharmacy Technician Registration**

16 Respondent.

Case No. 4290  
OAH No. 2012100139

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
21 She brought this action solely in her official capacity and is represented in this matter by Kamala  
22 D. Harris, Attorney General of the State of California, by Kim M. Settles, Deputy Attorney  
23 General.

24 2. Respondent Va Eung (Respondent) is representing himself in this proceeding and has  
25 chosen not to exercise his right to be represented by counsel.

26  
27 3. On or about July 18, 2011, Respondent filed an application dated May 25, 2011, with  
28 the Board of Pharmacy to obtain a Pharmacy Technician Registration.



1 communicate directly with the Board regarding this stipulation and settlement, without notice to  
2 or participation by Respondent. By signing the stipulation, Respondent understands and agrees  
3 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the  
4 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and  
5 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for  
6 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall  
7 not be disqualified from further action by having considered this matter.

8 11. The parties understand and agree that facsimile copies of this Stipulated Settlement  
9 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
10 effect as the originals.

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

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

20 **DISCIPLINARY ORDER**

21 **IT IS HEREBY ORDERED:**

22 The application of Respondent Va Eung for licensure is hereby granted. Upon successful  
23 completion of the licensure examination and all other licensing requirements, a registration shall  
24 be issued to Respondent. The registration shall immediately be revoked, the order of revocation  
25 stayed and Respondent placed on probation for a period of five (5) years on the following  
26 conditions:

27 **Certification Prior to Resuming Work**

28 Respondent shall be automatically suspended from working as a pharmacy technician until

1 he is certified as defined by Business and Professions Code section 4202(a)(4) and provides  
2 satisfactory proof of certification to the Board. Respondent shall not resume working as a  
3 pharmacy technician until notified by the board. Failure to achieve certification within one (1)  
4 year shall be considered a violation of probation. Respondent shall not resume working as a  
5 pharmacy technician until notified by the board.

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

14 Subject to the above restrictions, Respondent may continue to own or hold an interest in  
15 any licensed premises by the Board in which he holds an interest at the time this decision  
16 becomes effective unless otherwise specified in this order.

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

18 **1. Obey All Laws.**

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

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

22 a. An arrest or issuance of a criminal complaint for violation of any provision of  
23 the Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
24 substances laws;

25 b. A plea of guilty or nolo contendere in any state or federal criminal proceeding to  
26 any criminal complaint, information or indictment;

27 c. A conviction of any crime;

28 d. Discipline, citation, or other administrative action filed by any state or federal

1 agency which involves respondent's pharmacy technician registration or which is related to the  
2 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging  
3 for any drug, device or controlled substance;

4 e. Failure to timely report any such occurrence shall be considered a violation of  
5 probation.

6 **2. Report to the Board.**

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

15 **3. Interview with the Board.**

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

21 **4. Cooperate with Board Staff.**

22 Respondent shall cooperate with the board's inspection program and with the Board's  
23 monitoring and investigation of Respondent's compliance with the terms and conditions of his  
24 probation. Failure to cooperate shall be considered a violation of probation.

25 **5. Notice to Employers.**

26 During the period of probation, Respondent shall notify all present and prospective  
27 employers of the decision in case number 4290 and the terms, conditions and restrictions imposed  
28 on Respondent by the decision, as follows:

1           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
2 respondent undertaking any new employment, Respondent shall cause his direct supervisor,  
3 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's  
4 tenure of employment) and owner to report to the Board in writing acknowledging that the listed  
5 individual(s) has/have read the decision in case number 4290 and the terms and conditions  
6 imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or  
7 supervisor(s) submit timely acknowledgement(s) to the Board.

8           If Respondent works for or is employed by or through a pharmacy employment service,  
9 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy  
10 of the terms and conditions of the decision in case number 4290 in advance of the Respondent  
11 commencing work at each pharmacy. A record of this notification must be provided to the Board  
12 upon request.

13           Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
14 (15) days of Respondent undertaking any new employment by or through a pharmacy  
15 employment service, Respondent shall cause his direct supervisor with the pharmacy employment  
16 service to report to the Board in writing acknowledging that he has read the decision in case  
17 number 4290 and the terms and conditions imposed thereby. It shall be respondent's  
18 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely  
19 acknowledgment(s) to the board.

20           Failure to timely notify present or prospective employer(s) or to cause that/those  
21 employer(s) to submit timely acknowledgements to the Board shall be considered a violation of  
22 probation.

23           "Employment" within the meaning of this provision shall include any full-time, part-  
24 time, temporary or relief service or pharmacy management service as a pharmacy  
25 technician or in any position for which a pharmacy technician license is a requirement or  
26 criterion for employment, whether the Respondent is considered an employee, independent  
27 contractor or volunteer.

28

1           **6. Probation Monitoring Costs.**

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

6           **7. Status of License.**

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

10          If Respondent's pharmacy technician license expires or is cancelled by operation of law or  
11 otherwise at any time during the period of probation, including any extensions thereof due to  
12 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all  
13 terms and conditions of this probation not previously satisfied.

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

15          Following the effective date of this decision, should Respondent cease work due to  
16 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
17 Respondent may tender his pharmacy technician license to the Board for surrender. The Board or  
18 its designee shall have the discretion whether to grant the request for surrender or take any other  
19 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the  
20 license, Respondent will no longer be subject to the terms and conditions of probation. This  
21 surrender constitutes a record of discipline and shall become a part of the Respondent's license  
22 history with the Board.

23          Upon acceptance of the surrender, Respondent shall relinquish his pharmacy technician  
24 license to the Board within ten (10) days of notification by the Board that the surrender is  
25 accepted. Respondent may not reapply for any license, permit, or registration from the Board for  
26 three (3) years from the effective date of the surrender. Respondent shall meet all requirements  
27 applicable to the license sought as of the date the application for that license is submitted to the  
28 board.



1           9.   **Notification of a Change in Name, Residence Address, Mailing Address or**  
2                   **Employment.**

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

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

10           10.   **Tolling of Probation.**

11           Except during periods of suspension, respondent shall, at all times while on probation, be  
12 employed as a pharmacy technician in California for a minimum of forty (40) hours per calendar  
13 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,  
14 the period of probation shall be extended by one month for each month during which this  
15 minimum is not met. During any such period of tolling of probation, Respondent must  
16 nonetheless comply with all terms and conditions of probation.

17           Should Respondent, regardless of residency, for any reason (including vacation) cease  
18 working as a pharmacy technician for a minimum of forty (40) hours per calendar month in  
19 California, Respondent must notify the board in writing within ten (10) days of cessation of work  
20 and must further notify the Board in writing within ten (10) days of the resumption of the work.  
21 Any failure to provide such notification(s) shall be considered a violation of probation.

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

25           "Cessation of work" means calendar month during which respondent is not working  
26 for at least forty (40) hours as a pharmacy technician, as defined in Business and  
27 Professions Code section 4115. "Resumption of work" means any calendar month during  
28 which respondent is working as a pharmacy technician for at least forty (40) hours as a

1 pharmacy technician as defined by Business and Professions Code section 4115.

2 **11. Violation of Probation.**

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

8 If Respondent violates probation in any respect, the Board, after giving Respondent notice  
9 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
10 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
11 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
12 a Petition to Revoke Probation or an Accusation is filed against Respondent during probation, the  
13 Board shall have continuing jurisdiction, and the period of probation shall be automatically  
14 extended until the Petition to Revoke Probation or Accusation is heard and decided.

15 **12. Completion of Probation.**

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

18 **13. No Ownership of Licensed Premises.**

19 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
20 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
21 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
22 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)  
23 days following the effective date of this decision and shall immediately thereafter provide written  
24 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide  
25 documentation thereof shall be considered a violation of probation.

26 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a  
27 manager, administrator, member, officer, director, trustee, associate, or partner of any additional  
28 business, firm, partnership, or corporation licensed by the Board. If Respondent currently owns

1 or has any legal or beneficial interest in, or serve as a manager, administrator, member, officer,  
2 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently  
3 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold  
4 that interest, but only to the extent of that position or interest as of the effective of this decision.  
5 Violation of this restriction shall be considered a violation of probation.

6 **14. Attend Substance Abuse Recovery Relapse Prevention and Support Groups.**

7 Within thirty (30) days of the effective date of this decision, Respondent shall begin regular  
8 attendance at a recognized and established substance abuse recovery support group in California,  
9 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board  
10 or its designee. Respondent must attend at least one group meeting per week unless otherwise  
11 directed by the Board or its designee. Respondent shall continue regular attendance and submit  
12 signed and dated documentation confirming attendance with each quarterly report for the duration  
13 of probation. Failure to attend or submit documentation thereof shall be considered a violation of  
14 probation.

15 **15. Random Drug Screening.**

16 Respondent, at his own expense, shall participate in random testing, including but not  
17 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
18 screening program as directed by the board or its designee. Respondent may be required to  
19 participate in testing for the entire probation period and the frequency of testing will be  
20 determined by the Board or its designee. At all times Respondent shall fully cooperate with the  
21 Board or its designee, and shall, when directed, submit to such tests and samples for the detection  
22 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or  
23 its designee may direct. Failure to timely submit to testing as directed shall be considered a  
24 violation of probation. Upon request of the Board or its designee, Respondent shall provide  
25 documentation from a licensed practitioner that the prescription for a detected drug was  
26 legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely  
27 provide such documentation shall be considered a violation of probation. Any confirmed positive  
28 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a

1 documented medical treatment shall be considered a violation of probation and shall result in the  
2 automatic suspension of work by respondent. Respondent may not resume work as a pharmacy  
3 technician until notified by the Board in writing.

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

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

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

17 **16. Work Site Monitor.**

18 Within ten (10) days of the effective date of this decision, Respondent shall identify a work  
19 site monitor, for prior approval by the Board, who shall be responsible for supervising  
20 Respondent during working hours. Respondent shall be responsible for ensuring that the work  
21 site monitor reports in writing to the Board quarterly. Should the designated work site monitor  
22 determine at any time during the probationary period that Respondent has not maintained  
23 sobriety, he shall notify the board immediately, either orally or in writing as directed. Should  
24 Respondent change employment, a new work site monitor must be designated, for prior approval  
25 by the Board, within ten (10) days of commencing new employment. Failure to identify an  
26 acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to  
27 the Board, shall be considered a violation of probation.

28

1           **17. Notification of Departure.**

2           Prior to leaving the probationary geographic area designated by the Board or its designee  
3 for a period greater than twenty-four (24) hours, Respondent shall notify the Board verbally and  
4 in writing of the dates of departure and return. Failure to comply with this provision shall be  
5 considered a violation of probation.

6           **18. Abstain from Drugs and Alcohol Use.**

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

18           **19. Prescription Coordination and Monitoring of Prescription Use.**

19           Within thirty (30) days of the effective date of this decision, Respondent shall submit to the  
20 Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
21 physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the  
22 Respondent's history with the use of alcohol and who will coordinate and monitor any  
23 prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs.  
24 The approved practitioner shall be provided with a copy of the Board's Statement of Issues and  
25 Decision. A record of this notification must be provided to the Board upon request. Respondent  
26 shall sign a release authorizing the practitioner to communicate with the Board about  
27 Respondent's treatment. The coordinating physician, nurse practitioner, physician assistant, or  
28 psychiatrist shall report to the Board on a quarterly basis for the duration of probation regarding

1 Respondent's compliance with this condition. If any substances considered addictive have been  
2 prescribed, the report shall identify a program for the time limited use of any such substances.  
3 The Board may require that the single coordinating physician, nurse practitioner, physician  
4 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive  
5 medicine. Should Respondent, for any reason, cease supervision by the approved practitioner,  
6 Respondent shall notify the Board immediately and, within thirty (30) days of ceasing treatment,  
7 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist  
8 of Respondent's choice to the Board or its designee for its prior approval. Failure to timely  
9 submit the selected practitioner or replacement practitioner to the Board for approval, or to ensure  
10 the required reporting thereby on the quarterly reports, shall be considered a violation of  
11 probation.

12       If at any time an approved practitioner determines that Respondent is unable to practice  
13 safely or independently as a pharmacy technician, the practitioner shall notify the Board  
14 immediately by telephone and follow up by written letter within three (3) working days. Upon  
15 notification from the Board or its designee of this determination, Respondent shall be  
16 automatically suspended and shall not resume practice until notified by the Board that practice  
17 may be resumed.

18       During, suspension, Respondent shall not enter any pharmacy area or any portion of the  
19 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
20 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices  
21 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act  
22 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient  
23 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the  
24 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs  
25 and controlled substances. Respondent shall not resume practice until notified by the Board.

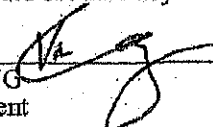
26       During suspension, Respondent shall not engage in any activity that requires the  
27 professional judgment of a pharmacy technician. Respondent shall not direct or control any  
28 aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy

1 technician or a designated representative for any entity licensed by the Board.

2 Failure to comply with this suspension 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 Registration. I enter into this  
6 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
7 to be bound by the Decision and Order of the Board of Pharmacy.


8 Dated: 10/11/12   
9 VA EUNG  
Respondent

10 ENDORSEMENT

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

13 Dated: 10/11/12

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General

  
KIM M. SETTLES  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Statement of Issues No. 4290**



1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 KIM M. SETTLES  
Deputy Attorney General  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
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11 In the Matter of the Statement of Issues  
Against:  
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13 **VA EUNG**  
14 **Pharmacy Technician Registration**  
**Applicant**  
15  
16 **Respondent.**

Case No. 4290  
**STATEMENT OF ISSUES**

17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
21 2. On or about July 18, 2011, the Board of Pharmacy, Department of Consumer Affairs  
22 received an application for a Pharmacy Technician Registration from Va Eung (Respondent). On  
23 or about May 25, 2011, Va Eung certified under penalty of perjury to the truthfulness of all  
24 statements, answers, and representations in the application. The Board denied the application on  
25 February 3, 2012.  
26 ///  
27 ///  
28 ///



1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
3 practice authorized by the license.

4 ...

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

7 "(k) The conviction of more than one misdemeanor or any felony involving the use,  
8 consumption, or self administration of any dangerous drug or alcoholic beverage, or any  
9 combination of those substances.

10 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
11 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
12 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
13 substances or of a violation of the statutes of this state regulating controlled substances or  
14 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
15 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
16 The board may inquire into the circumstances surrounding the commission of the crime, in order  
17 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
18 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
19 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
20 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
21 of this provision. The board may take action when the time for appeal has elapsed, or the  
22 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
23 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
24 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
25 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
26 indictment.

27 "(p) Actions or conduct that would have warranted denial of a license.

28

1           6.    Section 480 of the Code states:

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

4           "(1) Been convicted of a crime. A conviction within the meaning of this section means a  
5 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
6 board is permitted to take following the establishment of a conviction may be taken when the  
7 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when  
8 an order granting probation is made suspending the imposition of sentence, irrespective of a  
9 subsequent order under the provisions of Section 1203.4 of the Penal Code.

10           "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
11 benefit himself or herself or another, or substantially injure another.

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

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

17           "(b) Notwithstanding any other provision of this code, no person shall be denied a license  
18 solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
19 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
20 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
21 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
22 the rehabilitation of a person when considering the denial of a license under subdivision (a) of  
23 Section 482.

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

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28           ///

1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (Unprofessional Conduct - Conviction of Substantially Related Crimes)

3 7. Respondent's application for licensure as a pharmacy technician is subject to denial  
4 under Code sections 4300, as defined in Code sections 4301 subdivision (l) and 480 subdivision  
5 (a)(1) in that he was convicted of the following crimes that are substantially related to the  
6 qualifications, functions, and duties of a pharmacy technician:

7 A. On or about December 28, 2009, in San Francisco County Superior Court, Case No.  
8 02375200, entitled *People v. Va Eung*, Respondent was convicted by his plea of nolo contendere  
9 of violating Vehicle Code sections 23152, subdivision (a) (driving under the influence of alcohol)  
10 and 23152, subdivision (b) (driving with a .08%, or higher blood alcohol content).

11 The circumstances of the crime are that on or about July 5, 2008, Respondent drove a  
12 vehicle while having a blood alcohol content of .08%, or higher. Respondent was sentenced to  
13 120 days in County Jail; five years probation; required to pay fines, fees, restitution, and  
14 assessments; and required to complete the Multiple Offender's Drunk Driving Program.

15 B. On or about December 28, 2009, in San Francisco County Superior Court, Case No.  
16 02379195, entitled *People v. Va Eung*, Respondent was convicted by his plea of nolo contendere  
17 of violating Vehicle Code sections 23152, subdivision (a) (driving under the influence of  
18 alcohol); 23152, subdivision (b) (driving with a .08%, or higher blood alcohol content); and  
19 22350 (unsafe speed).

20 The circumstances of the crime are that on or about August 1, 2008, Respondent drove a  
21 vehicle over the speed limit while having a blood alcohol content of .08%, or higher. Respondent  
22 was sentenced to five years probation; two days in County Jail; required to pay fines,  
23 assessments; and required to complete the Multiple Offender's Drunk Driving Program.

24 C. On or about December 28, 2009, in San Francisco County Superior Court, Case No.  
25 02399195, entitled *People v. Va Eung*, Respondent was convicted by his plea of nolo contendere  
26 of violating Vehicle Code sections 23152, subdivision (a) (driving under the influence of  
27 alcohol); 23152, subdivision (b) (driving with a .08%, or higher blood alcohol content); and  
28 14601.5, subdivision (a) (driving with suspended/revoked license).



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FIFTH CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct - Conduct Warranting Denial of Application)

12. Respondent's application is subject to denial under Code section 4301, subdivision (p), in that Respondent engaged in conduct that would have warranted denial of a license as described in paragraph 6, above.

SIXTH CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct - Use of Alcohol)

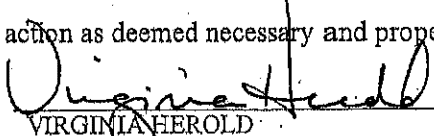
13. Respondent's application is subject to denial under Code section 4301, subdivision (h), in that Respondent used alcohol to the extent or in a manner as to be dangerous or injurious to himself or to the public, as described in paragraph 6, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

1. Denying the application of Va Eung for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 8/14/12



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

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