

1  
2  
3  
4  
5  
6 **BEFORE THE**  
7 **BOARD OF PHARMACY**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 4898

11 **KHAMMEE VANG**  
12 **5704 E. Beck Ave., #1**  
13 **Fresno, CA 93727**

**DEFAULT DECISION AND ORDER**

14 **Pharmacy Technician Registration No. TCH**  
15 **108621**

[Gov. Code, §11520]

16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about April 18, 2016, Complainant Virginia K. Herold, in her official capacity  
19 as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs,  
20 filed Accusation No. 4898 against Khammee Vang ("Respondent") before the Board.

(Accusation attached as Exhibit A.)

21 2. On or about December 27, 2010, the Board issued Pharmacy Technician Registration  
22 No. TCH 108621 to Respondent. The Pharmacy Technician Registration expired on January 31,  
23 2014, and was cancelled on May 4, 2014.

24 3. On or about April 26, 2016, Respondent was served by Certified and First Class Mail  
25 copies of the Accusation No. 4898, Statement to Respondent, Notice of Defense, Request for  
26 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
27 Respondent's address of record which, pursuant to California Code of Regulations, title 16,  
28

1 section 1409.1, is required to be reported and maintained with the Board. Respondent's address  
2 of record was and is: 5704 E. Beck Ave., #1, Fresno, CA 93727.

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. No documents were returned by the U.S. Postal Service marked as undeliverable.

7 6. Government Code section 11506(c) states, in pertinent part:

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

13 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
14 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
15 4898.

16 8. California Government Code section 11520(a) states, in pertinent part:

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

21 9. Pursuant to its authority under Government Code section 11520, the Board finds  
22 Respondent is in default. The Board will take action without further hearing and, based on the  
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
25 file at the Board's offices regarding the allegations contained in Accusation No. 4898, finds that  
26 the charges and allegations in Accusation No. 4898, are separately and severally, found to be true  
27 and correct by clear and convincing evidence.

28 10. Taking official notice of its own internal records, pursuant to Business and  
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
and Enforcement is \$1529.00 as of May 31, 2016.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Khammee Vang has subjected his Pharmacy Technician Registration No. TCH 108621 to discipline.

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

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

a. Respondent is subject to disciplinary action under Code section 4301, subdivision (I), on the grounds of unprofessional conduct, in that on or about November 4, 2013, in the case of *People v. Khammee Vang* (Sacramento Superior Court Case No. 13F03767), Respondent was convicted by the Court on his pleas of nolo contendere of violating Penal Code section 261.5, subdivision (c) (unlawful sexual intercourse with a minor who is more than three years younger than defendant), a felony, and Penal Code section 288a, subdivision (b)(1) (oral copulation with a minor), a felony. The facts and circumstances are that on or about and between January 15, 2012 and May 15, 2012, Respondent engaged in an act of unlawful sexual intercourse and did unlawfully participate in an act of oral copulation with Jane Doe, age 16 years, not the spouse of Respondent, the minor being more than three years younger than Respondent. The crimes are substantially related to the qualifications, functions and duties of a licensed pharmacy technician.

///

///

///

///

///

///

///

///

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

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

It is so ORDERED on July 13, 2016.

Azhar Gortiz

Amy Gutierrez, Pharm.D.  
Board President

Attachment:  
Exhibit A: Accusation No. 4898

# Exhibit A

Accusation No. 4898

(KHAMMEE VANG)

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 STEPHANIE ALAMO-LATIF  
Deputy Attorney General  
4 State Bar No. 283580  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 327-6819  
Facsimile: (916) 327-8643  
7 E-mail: Stephanie.AlamoLatif@doj.ca.gov  
Attorneys for Complainant  
8

9  
10 **BEFORE THE**  
**BOARD OF PHARMACY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
11

12 In the Matter of the Accusation Against:

Case No. 4898

13 **KHAMMEE VANG**  
14 **5704 W. Beck Ave., #1**  
**Fresno, CA 93727**

**A C C U S A T I O N**

15 **Pharmacy Technician Registration No. TCH**  
16 **108621**

Respondent.  
17

18  
19 Virginia Herold ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the Executive  
22 Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.

23 2. On or about December 27, 2010, the Board issued Pharmacy Technician Registration  
24 Number TCH 108621 to Khammee Vang ("Respondent"). The Pharmacy Technician Registration  
25 expired on January 31, 2014, and was cancelled on May 4, 2015.

26 ///

27 ///

28 ///

## JURISDICTION

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

4. Code section 4300.1 states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

## STATUTORY PROVISIONS

5. Code section 4301 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 conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
5 indictment.

6 ...

#### 7 COST RECOVERY

8 6. Code section 125.3 states, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licensee found to have committed a violation or violations of  
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case.

#### 12 CAUSE FOR DISCIPLINE

##### 13 (Conviction of Crime)

14 7. Respondent is subject to disciplinary action under Code section 4301, subdivision (1),  
15 on the grounds of unprofessional conduct, in that on or about November 4, 2013, in the case of  
16 *People v. Khammee Vang* (Sacramento Superior Court Case No. 13F03767), Respondent was  
17 convicted by the Court on his pleas of nolo contendere of violating Penal Code section 261.5,  
18 subdivision (c) (unlawful sexual intercourse with a minor who is more than three years younger  
19 than defendant), a felony, and Penal Code section 288a, subdivision (b)(1) (oral copulation with a  
20 minor), a felony. The facts and circumstances are that on or about and between January 15, 2012  
21 and May 15, 2012, Respondent engaged in an act of unlawful sexual intercourse and did  
22 unlawfully participate in an act of oral copulation with Jane Doe, age 16 years, not the spouse of  
23 Respondent, the minor being more than three years younger than Respondent. The crimes are  
24 substantially related to the qualifications, functions and duties of a licensed pharmacy technician.

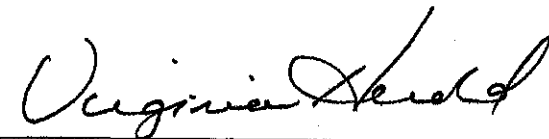
#### 25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Board of Pharmacy issue a decision:  
28



- 1           1.    Revoking or suspending Pharmacy Technician Registration Number TCH 108621,  
2 issued to Khammee Vang;  
3           2.    Ordering Khammee Vang to pay the Board of Pharmacy the reasonable costs of the  
4 investigation and enforcement of this case, pursuant to Business and Professions Code section  
5 125.3;  
6           3.    Taking such other and further action as deemed necessary and proper.

7  
8  
9  
10 DATED: 4/18/16



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

11  
12  
13  
14  
15 SA2016100864  
12218931.doc  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28