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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,
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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

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

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

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

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

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 108621, heretofore issued to Respondent Khammee Vang, is revoked.

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.

This Decision shall become effective at 5:00 p.m. on August 12, 2016.

It is so ORDERED on July 13, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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DOJ Matter ID:SA2016100864

Attachment:
Exhibit A: Accusation No. 4898

Exhibit A

Accusation No. 4898

(KHAMMEE VANG)

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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

ACCUSATION

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

17 Respondent.

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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.

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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 licentiate 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 (I),
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.

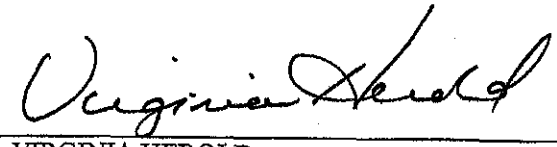
25 **PRAYER**

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:
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1. Revoking or suspending Pharmacy Technician Registration Number TCH 108621, issued to Khammee Vang;
2. Ordering Khammee Vang 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/18/16



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

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