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

11 In the Matter of the Accusation Against:

Case No. 3911

12 **CALVINNGHIA HOANG TRIEU**
13 **507 S. Euclid Street, #174**
14 **Santa Ana, CA 92704**

A C C U S A T I O N

15 **Pharmacy Technician Registration**
No. TCH 45518

16 Respondent.

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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 licentiate 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 14. Lomotil is designated by Health and Safety Code section 11055(c)(4) as a Schedule II
2 controlled substance, and by Business and Professions Code section 4022 as a dangerous drug. It
3 is used to treat diarrhea.

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Unprofessional Conduct: Acts of Dishonesty, Fraud and Deceit)

6 15. Respondent is subject to disciplinary action under Code sections 4300 and 4301(f)
7 for acts of dishonesty, fraud or deceit, as more particularly alleged below:

8 a. On June 18, 2010, Respondent was employed as a pharmacy technician at
9 Walgreens Pharmacy in Garden Grove, California and had been working there for over two years.

10 b. Prior to June 18, 2010, the Loss Prevention Manager at the Walgreens Pharmacy
11 in Garden Grove noticed a large discrepancy in the prescription medicine inventory at the
12 pharmacy.

13 c. The Loss Prevention Manager approached Respondent and asked him about the
14 missing inventory. Respondent admitted that during the last two years, he had been stealing
15 numerous amounts of prescription medication for his friends and for his own personal use.
16 Respondent admitted to taking mostly Hydrocodone and anti-diarrhea medicine. Respondent
17 stated that he took approximately 20 to 30 Hydrocodone pills at a time from the pharmacy. He
18 would place the pills in his pockets prior to leaving work. Respondent also admitted that in May,
19 2010, he took from Walgreens Pharmacy a 100-pill bottle of Lomotil for his diarrhea problem
20 because he was going on a trip to Vietnam and needed them.

21 **SECOND CAUSE FOR DISCIPLINE**

22 (Unprofessional Conduct: Obtaining a Controlled Substance by Fraud, Subterfuge)

23 16. Respondent is subject to disciplinary action under Code section 4301(j) in
24 conjunction with Health and Safety Code section 11173 for obtaining controlled substances by
25 fraud, deceit, subterfuge or concealment of a material fact, when he stole Hydrocodone and
26 Lomotil from the Walgreens Pharmacy as more particularly alleged in paragraph 15 above and
27 incorporated herein by reference.

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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:

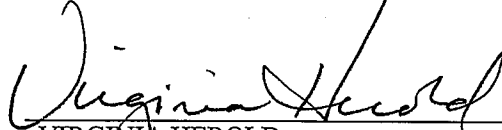
27 1. Revoking or suspending Pharmacy Technician Registration Number TCH 45518,
28 issued to Calvinnghia Hoang Trieu;

1 2. Ordering Calvinnghia Hoang Trieu to pay the Board of Pharmacy the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3; and

4 3. Taking such other and further action as deemed necessary and proper.

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6 DATED:

6/6/11



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

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