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

11 In the Matter of the Accusation Against:

Case No. 4492

12 **NELLA ALICE TRAN**
4718 Arden Way
13 El Monte, CA 91731

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH
124574

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about July 17, 2012, the Board issued Pharmacy Technician Registration No.
22 TCH 124574 to Nella Alice Tran ("Respondent"). The Pharmacy Technician Registration was in
23 full force and effect at all times relevant to the charges brought herein. Said license was restricted
24 on November 7, 2012, pursuant to Penal Code section 23, and expired on or about March 31,
25 2014.

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1 8. Section 4301 states, in pertinent part:

2 "The board shall take action against any holder of a license who is guilty of unprofessional
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
4 Unprofessional conduct shall include, but is not limited to, any of the following:

5 (a) Gross immorality.

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7 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
8 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
9 whether the act is a felony or misdemeanor or not.

10

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 ***(Conviction of Substantially Related Crime)***

3 12. Respondent is subject to disciplinary action under Code sections 490, 4300, and 4301,
4 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
5 grounds of unprofessional conduct, in that, Respondent was convicted of a crime substantially
6 related to the qualifications, functions, or duties of a registered pharmacy technician which to a
7 substantial degree evidence her present or potential unfitness to perform the functions authorized
8 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

9 a. On or about December 3, 2014, after pleading *nolo contendere*, Respondent was
10 convicted of one felony count of violating Penal Code section 311.4, subdivision (c) [Using
11 Minor for Sex Acts], in the criminal proceeding entitled *The People of the State of California v.*
12 *Nella Alice Tran* (Super. Ct. Los Angeles County, 2014, No. KA098671-05). The Court
13 sentenced Respondent to 3 years in state prison, required her to register as a sex offender, ordered
14 her to pay restitution, and fined her.

15 b. The circumstances surrounding the conviction are that between approximately July 1,
16 2011 and June 16, 2012, Respondent induced her own daughter, then between the ages of eight
17 (8) and nine (9) years old; to pose for sexually explicit photographs taken by Respondent and
18 multiple adult men. In preparing for these photographs, Respondent forced her daughter to wear
19 adult bras, "thong"-style panties, and high heels. Respondent instructed her daughter to pose in
20 variously sexually provocative poses. Respondent and the men watched the victim pose and took
21 photographs using their cell phones. These events would occur in Respondent's home under
22 Respondent's supervision and instruction.

23 **SECOND CAUSE FOR DISCIPLINE**

24 ***(Acts of Sexual Abuse)***

25 13. Respondent is subject to disciplinary action under sections 726, 4300 and 4301, on
26 the grounds of unprofessional conduct, in that, Respondent committed acts of sexual abuse as set
27 forth in paragraph 12 above, and as follows:

28 a. Between approximately July 1, 2011 and June 16, 2012, Respondent committed acts

1 of sexual penetration by a foreign object on her own daughter, then between the ages of eight (8)
2 and nine (9) years old, by means of force, violence, duress, menace and fear of immediate and
3 unlawful bodily injury.

4 b. Between approximately July 1, 2011 and June 16, 2012, Respondent committed lewd
5 and lascivious acts upon and with the body and certain parts of her own daughter, then between
6 the ages of eight (8) and nine (9) years old, with the intent of arousing, appealing to, and
7 gratifying the lust, passions, and sexual desires of Respondent and the said child, by force,
8 violence, duress, menace and threat of great bodily harm.

9 c. Between approximately July 1, 2011 and June 16, 2012, Respondent committed acts
10 act of sexual intercourse/sodomy on her own daughter, then between the ages of eight (8) and
11 nine (9) years old.

12 d. Between approximately July 1, 2011 and June 16, 2012. Respondent committed acts
13 of oral copulation/sexual penetration on her own daughter, then between the ages of eight (8) and
14 nine (9) years old.

15 e. Between approximately July 1, 2011 and June 16, 2012, Respondent committed acts
16 constituting continuous sexual abuse against her own daughter, then between the age of eight (8)
17 and nine (9) years old.

18 f. Between approximately July 1, 2011 and June 16, 2012, Respondent knowingly
19 allowed, permitted, tolerated, ignored, aided and/or facilitated repeated and continuous sexual
20 assaults by multiple adult men on her own daughter, then between the age of eight (8) and nine
21 (9) years old. These acts included, but were not limited to, taking pornographic photographs, acts
22 of oral copulation, sexual penetration, lewd acts, and other conduct constituting sexual abuse of
23 her daughter, a very young child, in her own home.

24 **THIRD CAUSE FOR DISCIPLINE**

25 ***(Gross Immorality)***

26 14. Respondent is subject to disciplinary action under sections 4300 and 4301,
27 subdivision (a), on the grounds of unprofessional conduct, in that, Respondent committed acts
28 constituting gross immorality. Complainant refers to, and by this reference incorporates, the

1 allegations set forth above in paragraphs 12 and 13, as though fully set forth herein.

2 **FOURTH CAUSE FOR DISCIPLINE**

3 ***(Crime and Acts Involving Moral Turpitude and/or Corruption)***

4 15. Respondent is subject to disciplinary action under sections 4300 and 4301,
5 subdivision (f), on the grounds of unprofessional conduct, in that, Respondent committed acts and
6 was convicted of a crime involving moral turpitude and/or corruption. Complainant refers to, and
7 by this reference incorporates, the allegations set forth above in paragraphs 12 and 13, as though
8 fully set forth herein.

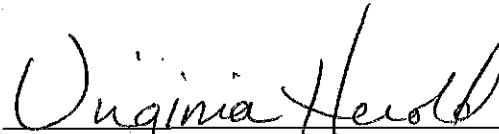
9 **PRAYER**

10 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board issue a decision:

- 12 1. Revoking Pharmacy Technician Registration No. TCH 124574 issued to Nella Alice
13 Tran;
- 14 2. Ordering Nella Alice Tran to pay the Board the reasonable costs of the investigation
15 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: _____

8/18/15



19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant
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