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

12 In the Matter of the Accusation Against:

Case No. 4706

13 **CHENG C. SAECHAO**
5020 Concord Road
Sacramento, CA 95820

A C C U S A T I O N

14 **Pharmacist Technician Registration No.**
15 **TCH 93464**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about March 11, 2010, the Board of Pharmacy issued Pharmacist Technician
23 Registration Number TCH 93464 to Cheng Chiew Saechao (Respondent). The Pharmacist
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on December 31, 2013, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4300 of the Code states in pertinent part:

6 (a) Every license issued may be suspended or revoked.

7 (b) The board shall discipline the holder of any license issued by the board, whose default
8 has been entered or whose case has been heard by the board and found guilty, by any of the
9 following methods:

10 (1) Suspending judgment.

11 (2) Placing him or her upon probation.

12 (3) Suspending his or her right to practice for a period not exceeding one year.

13 (4) Revoking his or her license.

14 (5) Taking any other action in relation to disciplining him or her as the board in its
15 discretion may deem proper.

16 5. Section 4301 of the Code states in pertinent part:

17 The board shall take action against any holder of a license who is guilty of unprofessional
18 conduct. Unprofessional conduct shall include, but is not limited to, any of the following:

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

22 (l) The conviction of a crime substantially related to the qualifications, functions, and
23 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
24 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
25 substances or of a violation of the statutes of this state regulating controlled substances or
26 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
27 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
28 The board may inquire into the circumstances surrounding the commission of the crime, in order

1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
2 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
5 of this provision. The board may take action when the time for appeal has elapsed, or the
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
10 indictment.

11 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
12 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
13 disciplinary action during the period within which the license may be renewed, restored, reissued
14 or reinstated.

15 7. California Code of Regulations, title 16, section 1770, states:

16 "For the purpose of denial, suspension, or revocation of a personal or facility license
17 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
18 crime or act shall be considered substantially related to the qualifications, functions or duties of a
19 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
20 licensee or registrant to perform the functions authorized by his license or registration in a manner
21 consistent with the public health, safety, or welfare."

22 **COST RECOVERY**

23 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
27 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
28 included in a stipulated settlement.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Substantially Related Criminal Conviction)**

3 9. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that
4 on or about December 11, 2012, in a case entitled *People v. Chang Chiew Saechao* case number
5 11F04952, Respondent was convicted on a plea of nolo contendere to a violation of Penal Code
6 section 422, threatening crime with intent to terrorize. The circumstances are as follows:

7 10. On or about July 13, 2011, at approximately 2:00am, Respondent had been drinking
8 and woke up his stepsons and his wife. Respondent was upset with his family and made them
9 clean the kitchen, stating as they did so that his family did not love or respect him. Respondent
10 then grabbed a knife and placed it against one of his stepson's throat, causing a small laceration.
11 Respondent stated he could kill the whole family while continuing to hold the knife to his
12 stepson's throat. Respondent was arrested and charged with assault with a deadly weapon, and
13 four counts of threatening crime with intent to terrorize.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct)**

16 11. Respondent is subject to disciplinary action under section 4301, subsection (f) in that
17 on or about July 13, 2011, Respondent committed unprofessional conduct by committing an act
18 of moral turpitude, assault with a deadly weapon, as described more specifically in paragraph 10,
19 above, and incorporated herein by reference.

20 **DISCIPLINE CONSIDERATIONS**

21 12. To determine the degree of discipline, if any, to be imposed on Respondent,
22 Complainant alleges that on or about March 12, 2001, in a prior criminal proceeding entitled
23 *People v. Cheng Chiew Saechao* in Sacramento Superior Court, Case Number 01T00869.
24 Respondent was convicted for violating Vehicle Code section 23152(b), driving under the
25 influence of alcohol, a misdemeanor.

26 13. To determine the degree of discipline, if any, to be imposed on Respondent,
27 Complainant alleges that on or about August 14, 2008, in a prior criminal proceeding entitled
28 *People v. Cheng Chiew Saechao* in Sacramento Superior Court, Case Number 08M02846.

1 Respondent was convicted for violating Fish and Game Code section 2002, possession of a
2 creature unlawfully taken, a misdemeanor.

3 **PRAYER**

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


6 1. Revoking or suspending Pharmacist Technician Registration Number TCH 93464,
7 issued to Cheng C. Saechao.;

8 2. Ordering Cheng C. Saechao to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3;

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

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DATED: 7/22/13


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

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