

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 JAMES M. LEDAKIS
Supervising Deputy Attorney General
4 State Bar No. 132645
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2105
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12
13 In the Matter of the Accusation Against:

Case No. 5700

14 **MANIVANH MEUANGKHOT**
6381 Medio Street
15 San Diego, CA 92114

A C C U S A T I O N

16 **Pharmacy Technician Registration**
17 **No. TCH 62846**

18 Respondent.

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 June 13, 2005, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 62846 to Manivanh Meuangkhot (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 January 31, 2017, 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 (Code) unless otherwise indicated.~~

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 492 of the Code states:

14 Notwithstanding any other provision of law, successful completion of any
15 diversion program under the Penal Code, or successful completion of an alcohol and
16 drug problem assessment program under Article 5 (commencing with section 23249.50)
17 of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency
18 established under Division 2 ([Healing Arts] commencing with Section 500) of this code,
19 or any initiative act referred to in that division, from taking disciplinary action against a
20 licensee or from denying a license for professional misconduct, notwithstanding that
21 evidence of that misconduct may be recorded in a record pertaining to an arrest.

22 This section shall not be construed to apply to any drug diversion program
23 operated by any agency established under Division 2 (commencing with Section 500) of
24 this code, or any initiative act referred to in that division.

25 7. Section 4301 of the Code states:

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

....

(h) The administering to oneself, of any controlled substance, or the use of any
dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous
or injurious to oneself, to a person holding a license under this chapter, or to any other
person or to the public, or to the extent that the use impairs the ability of the person to
conduct with safety to the public the practice authorized by the license.

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3 (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. . . .

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5 **REGULATORY PROVISIONS**

6 8. California Code of Regulations, title 16, section 1770, states:

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

10 **COSTS**

11 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
15 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
16 may be included in a stipulated settlement.

17 **DRUG**

18 10. Methamphetamine is a Schedule II controlled substance as designated by Health
19 and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business
20 and Professions Code section 4022.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Dangerous Use of a Controlled Substance on August 31, 2014)**

23 11. Respondent has subjected her registration to discipline under section 4301,
24 subdivision (j) of the Code in that she administered to herself and was under the influence of the
25 controlled substance methamphetamine in a manner as to be dangerous or injurious to herself or
26 others. The circumstances are as follows:

27 a. On or about the 3:22 a.m. on August 31, 2014, the San Diego Police
28 Department responded to a call of a possible burglary in progress. When officers arrived at the

1 reported residence, they made contact with a male who stated that Respondent was in a bedroom
2 and allowed the officers to enter the premises. The officers made contact with Respondent who
3 immediately stated that she had been smoking methamphetamine for two days. Respondent led
4 the officers to her bedroom where they located a small amount of what appeared to be
5 methamphetamine residue on a mirror and in a small baggie. An examination of Respondent
6 indicated she was under the influence. Respondent was arrested for possession of
7 methamphetamine, and being under the influence of methamphetamine. Respondent submitted to
8 a drug evaluation; she had dilated pupils, an elevated pulse, paranoia, strong thirst, bad breath,
9 eyelid flutters, and muscle rigidity. Officers discovered that there was not enough
10 methamphetamine to conduct a presumptive test, so the possession charge was dropped.
11 Respondent provided a sample of blood that was subsequently analyzed as positive for
12 amphetamines and methamphetamine.

13 b. As a result of the arrest, on or about August 24, 2015, in a criminal proceeding
14 entitled *People of the State of California v. Manivah Noi Meuangkhot*, in San Diego County
15 Superior Court, case number M196490, Respondent pled guilty to violating Health and Safety
16 Code section 11550, subdivision (a), under the influence of a controlled substance, to wit,
17 methamphetamine, a misdemeanor.

18 c. As a result of the plea, the court deferred entry of judgment for 18 months and
19 Respondent was ordered to enroll in and complete a drug diversion program pursuant to Penal
20 Code section 1000.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Violation of California Statutes Regulating Controlled Substances)**

23 12. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
24 Code for unprofessional conduct in that on or about August 31, 2014, Respondent violated Health
25 and Safety Code section 11550, subdivision (a), as detailed in paragraph 11, above, when
26 Respondent was under the influence of methamphetamine.

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PRAYER

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

1. ~~Revoking or suspending Pharmacy Technician Registration Number TCH-62846,~~ issued to Manivanh Meuangkhhot;
2. Ordering Manivanh Meuangkhhot 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: 1/22/16 

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

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