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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 5803

11 **MINHTHU TRAN NGUYEN**  
12 **1232 College Avenue**  
13 **Alameda, CA 94501**

**A C C U S A T I O N**

14 **Pharmacist License No. RPH 48195**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about August 14, 1995, the Board of Pharmacy issued Pharmacist License  
21 Number RPH 48195 to Minhthu Tran Nguyen (Respondent). The Pharmacist License was in full  
22 force and effect at all times relevant to the charges brought herein and will expire on August 31,  
23 2017, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
26 Consumer Affairs, under the authority of the following laws. All section references are to the  
27 Business and Professions Code unless otherwise indicated.  
28

1           4. California Code of Regulations, title 16, section 1770, states:

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

8           5. Section 4300 of the Business and Professions Code, in pertinent part, states:

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

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

13           "(1) Suspending judgment.

14           "(2) Placing him or her upon probation.

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

16           "(4) Revoking his or her license.

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

19           . . .

20           6. Section 4301 of the Business and Professions Code, in pertinent part, states:

21           "The board shall take action against any holder of a license who is guilty of unprofessional  
22 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is  
23 not limited to, any of the following:

24           . . .

25           "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
26 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
27 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
28

1 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
2 practice authorized by the license.

3 . . .

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

21 . . .

22 7. Section 125.3 of the Business and Professions Code states, in pertinent part, that the  
23 Board may request the administrative law judge to direct a licentiate found to have committed a  
24 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
25 investigation and enforcement of the case.

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27 / / /

28 / / /

1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct -- Conviction of a Crime)

3 8. Respondent is subject to disciplinary action under Business and Professions Code  
4 section 4301(l) for unprofessional conduct in that she was convicted of a crime substantially  
5 related to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

6 a. On or about February 18, 2016 in a criminal proceeding entitled *The People of the*  
7 *State of California v. Minhthu Nguyen* in San Joaquin County Superior Court, Case No. CR-2015-  
8 0014503, Respondent was convicted by her plea of nolo contendere for violating Vehicle Code  
9 section 23152(b) – driving while having a blood alcohol level of 0.08 percent or higher with a .20  
10 percent enhancement.

11 b. On or about October 30, 2015, at 2115 hours, police officers from the Stockton Police  
12 Department were dispatched to assist with a DUI evaluation. The officer noticed that the driver  
13 was involved in a collision. When the officer made contact with the driver he noticed that  
14 Respondent had red watery eyes and the strong odor of an alcoholic beverage emanating from her  
15 person. During questioning, Respondent admitted to driving home from a bar after drinking an  
16 alcoholic beverage called soju. The officer then administered standard field sobriety tests to  
17 Respondent which she performed poorly. Based on Respondent's poor performance on the field  
18 sobriety tests, her objective signs of intoxication, her admission to drinking alcoholic beverages,  
19 the officer advised Respondent she was under arrest for driving under the influence. The  
20 Respondent refused a chemical test and thereafter a search warrant was issued and a blood sample  
21 was taken from her at the County Hospital. Thereafter, Respondent was transported to the County  
22 Jail and booked into custody. On November 16, 2015, a forensic alcohol analysis of  
23 Respondent's blood sample reported her blood alcohol level was 0.29% at the time of the  
24 incident.

25 c. On or about February 18, 2016, Respondent was placed on 3 years probation and  
26 sentenced to serve 17 days in the county jail, ordered to obey all laws, ordered to enroll and  
27 complete a 9 month First Offender Drinking Driver Program, and ordered to pay fines and fees.

28 / / /

1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct - Self Administering Drugs/Alcohol)

3 9. Respondent is subject to disciplinary action under Business and Professions Code  
4 section 4301(h) for unprofessional conduct in that on or about October 30, 2015 she used  
5 alcoholic beverages, to an extent or in a manner dangerous or injurious to herself or, any other  
6 person, or the public, as set forth in paragraph 8, above.

7 DISCIPLINE CONSIDERATIONS

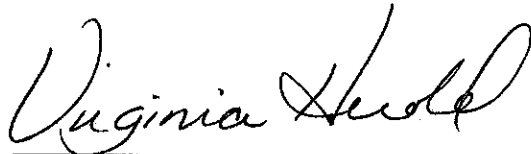
8 10. On June 6, 2010, the Respondent was arrested by officers of the Walnut Creek Police  
9 Department for disorderly conduct (Penal Code sec. 647(f). The Board issued a letter of  
10 admonishment on March 9, 2011 and closed the case.

11  
12 PRAYER

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

- 15 1. Revoking or suspending Pharmacist License Number RPH 48195, issued to Minhthu  
16 Tran Nguyen
- 17 2. Ordering Minhthu Tran Nguyen to pay the Board of Pharmacy the reasonable costs of  
18 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
19 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.
- 21  
22

23  
24 DATED: 2/13/17



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

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