

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

In the Matter of the Accusation Against:

Case No. 4324

HOAIBAO NGUYEN NGUYEN

a.k.a., HOAI NAM NGUYEN

a.k.a., TINA NGUYEN

6753 Meriwether Ct.

Rancho Cucamonga, CA 91701

Pharmacy Technician Registration No.

TCH 105756

Respondent.

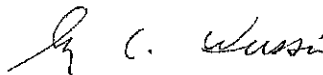
DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on July 21, 2014.

It is so ORDERED on July 16, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER

Board President

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
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6753 Meriwether Ct.
14 Rancho Cucamonga, CA 91701

15 **Pharmacy Technician Registration No. TCH**
16 **105756**

17 Respondent.

Case No. 4324
OAH No. 2013100518

STIPULATED SURRENDER OF
LICENSE AND ORDER

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Christine J. Lee, Deputy Attorney
24 General.

25 2. Hoaibao Nguyen Nguyen, also known as Hoai Nam Nguyen, and Tina Nguyen
26 (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to
27 be represented by counsel.
28

1 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance
2 of the surrendered license by the Board shall constitute the imposition of discipline against
3 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
4 Respondent's license history with the Board of Pharmacy.

5 2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California
6 as of the effective date of the Board's Decision and Order.

7 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
8 issued, her wall certificate on or before the effective date of the Decision and Order.

9 4. If she ever applies for licensure or petitions for reinstatement in the State of
10 California, the Board shall treat it as a new application for licensure. Respondent must comply
11 with all the laws, regulations and procedures for licensure in effect at the time the application or
12 petition is filed, and all of the charges and allegations contained in Accusation No. 4324 shall be
13 deemed to be true, correct and admitted by Respondent when the Board determines whether to
14 grant or deny the application or petition.

15 5. Respondent stipulates that should she apply for any license from the board on or after
16 the effective date of this decision, investigation and prosecution costs in the amount of \$2,177.50
17 shall be paid to the board prior to issuance of the license.

18 6. If Respondent should ever apply or reapply for a new license or certification, or
19 petition for reinstatement of a license, by any other health care licensing agency in the State of
20 California, all of the charges and allegations contained in Accusation, No. 4324 shall be deemed
21 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
22 other proceeding seeking to deny or restrict licensure.

23 7. Respondent may not apply for any license, permit, or registration from the board for
24 three (3) years from the effective date of this decision. Respondent stipulates that should she
25 apply for any license from the board on or after the effective date of this decision, all allegations
26 set forth in the accusation shall be deemed to be true, correct and admitted by respondent when
27 the board determines whether to grant or deny the application.

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 6/9/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



CHRISTINE J. LEE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4324

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
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7 *Attorneys for Complainant*

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6753 Meriwether Ct.
Rancho Cucamonga, CA 91701

A C C U S A T I O N

16 Pharmacy Technician Registration
No. TCH 105756

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 August 4, 2010, the Board of Pharmacy ("Board") issued Pharmacy
23 Technician Registration No. TCH 105756 to Hoaibao Nguyen Nguyen, also known as Hoai Nam
24 Nguyen, and Tina Nguyen ("Respondent"). The Pharmacy Technician Registration was in full
25 force and effect at all times relevant to the charges brought herein and will expire on December
26 31, 2013, unless renewed.

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28 ///

1 JURISDICTION

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

5 4. Section 4011 of the Code provides:

6 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and
7 Professions Code, Sec 4000 et seq.)] and the Uniform Controlled Substances Act (Division 10
8 commencing with Section 11000) of the Health and Safety Code."

9 5. Section 4300 of the Code states, in pertinent part, that every license issued by the
10 Board is subject to discipline, including suspension or revocation.

11 6. Section 4300.1 of the Code states, "the expiration, cancellation, forfeiture, or
12 suspension of a board-issued license by operation of law or by order or decision of the board or a
13 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
14 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
15 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
16 suspending or revoking the license."

17 STATUTORY PROVISIONS

18 7. Section 118, subdivision (b) of the Code provides, in pertinent part, that the
19 expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary
20 action during the period within which the license may be renewed, restored, reissued or
21 reinstated.

22 8. Section 490 of the Code states, in pertinent part:

23 "(a) In addition to any other action that a board is permitted to take against a licensee, a
24 board may suspend or revoke a license on the ground that the licensee has been convicted of a
25 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
26 or profession for which the license was issued.

27 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
28 discipline a licensee for conviction of a crime that is independent of the authority granted under

1 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
2 of the business or profession for which the licensee's license was issued.

3 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
4 conviction following a plea of nolo contendere. Any action that a board is permitted to take
5 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
6 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
7 made suspending the imposition of sentence, irrespective of a subsequent order under the
8 provisions of Section 1203.4 of the Penal Code.”

9 9. Section 493 of the Code states:

10 “Notwithstanding any other provision of law, in a proceeding conducted by a
11 board within the department pursuant to law to deny an application for a license or to
12 suspend or revoke a license or otherwise take disciplinary action against a person who
13 holds a license, upon the ground that the applicant or the licensee has been convicted
14 of a crime substantially related to the qualifications, functions, and duties of the
15 licensee in question, the record of conviction of the crime shall be conclusive
16 evidence of the fact that the conviction occurred, but only of that fact, and the board
17 may inquire into the circumstances surrounding the commission of the crime in order
18 to fix the degree of discipline or to determine if the conviction is substantially related
19 to the qualifications, functions, and duties of the licensee in question.”

20 As used in this section, “license” includes “certificate,” “permit,” “authority,” and
21 “registration.”

22 10. Section 4301 of the Code states, in pertinent part:

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

26 “(a) Gross immorality.”

27

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially Related Crime)**

5 13. Respondent is subject to disciplinary action under sections 4301, subdivision (I) and
6 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1770, in
7 that, Respondent was convicted of crimes substantially related to the qualifications, functions or
8 duties of a pharmacy technician.

9 a. On or about December 21, 2011, after pleading guilty, Respondent was convicted of
10 one felony count of violating Penal Code section 484e, subdivision (d) [theft of access cards;
11 acquiring or retaining possession of access account information with respect to an access card
12 validly issued to another person, with the cardholder's or issuer's consent, with the intent to use it
13 fraudulently]; one felony count of Penal Code section 484f, subdivision (a) [forgery of access
14 cards]; one felony count of Penal Code section 502(c)(1) [unauthorized access to computers,
15 computer systems, data; knowingly access and without permission alters, damages, deletes,
16 destroys, or otherwise uses any data, computer, computer system or computer network to either
17 devise or execute any scheme of artifice to defraud, deceive or extort or wrongfully control obtain
18 money, property or data]; one felony count of Penal Code section 530.5, subdivision (a)
19 [unauthorized use of personal identifying information of another person and use that information
20 for an unlawful purpose without the consent of that person]; and one felony count of Penal Code
21 section 459 [burglary] in the criminal proceeding entitled *The People of the State of California v.*
22 *Hoai Boanguyen Nguyen* (Super. Ct. Riverside County, 2011, No. BAF10000651). The Court
23 placed Respondent on 36 months probation and ordered her to pay \$10,842.19 in restitution.

24 b. The circumstances surrounding the conviction are that on or about May 25, 2010
25 through on or about July 14, 2010, Respondent willfully and unlawfully acquired and retained
26 access card account information issued to another person, without the cardholder's and issuer's
27 consent, with intent to use it fraudulently. In addition, Respondent, designed, made, altered and
28 embossed a counterfeit access card, and attempted to use a counterfeit access card, with the intent

1 to defraud Jane and John Does, Casino Morongo. Respondent used such counterfeit access cards
2 to win a total of \$21,684 in cash at slot machines at Casino Morongo. Additionally, Respondent,
3 knowingly accessed and without permission altered, damaged, deleted, destroyed, or used data,
4 computer, computer system or computer network in order to devise or execute a scheme to
5 defraud, deceive, or extort, or wrongfully control or obtain money, property or data.
6 Furthermore, Respondent obtained personal credit, goods, services, and medical information in
7 the name of another person without consent. Respondent willfully and unlawfully entered a
8 building located at 49500 Seminole Dr., Cabazon, with the intent to commit a theft and felony.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Acts Involving Dishonesty, Fraud or Deceit)**

11 14. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
12 that Respondent committed acts involving dishonesty, fraud or deceit. Complainant refers to, and
13 by this reference incorporates, the allegations set forth above in paragraph 13, as though set forth
14 fully.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Violation of Pharmacy Act)**

17 15. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the
18 Code, on the grounds of unprofessional conduct, in that Respondent was convicted of crimes
19 substantially related to the qualifications, functions or duties of a pharmacy technician and
20 committed acts in violation of the Pharmacy Act. Complainant refers to, and by this reference
21 incorporates, the allegations set forth above in paragraphs 13 through 14, inclusive, as though set
22 forth fully.

23 **PRAYER**

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

26 1. Revoking or suspending Pharmacy Technician Registration No. TCH 105756, issued
27 to Hoaibao Nguyen Nguyen, also known as Hoai Nam Nguyen, and Tina Nguyen;

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