

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:
NELLA ALICE TRAN
4718 Arden Way
El Monte, CA 91731
**Pharmacy Technician Registration
No. TCH 124574**

Respondent.

Case No. 4492
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 18, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4492 against Nella Alice Tran (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about July 17, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 124574 to Respondent. The Pharmacy Technician Registration expired on March 31, 2014, and has not been renewed.
3. On or about August 28, 2015, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4492, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 4100, is required to be reported and maintained with the Board. Respondent's address of
4 record was and is: 4718 Arden Way, El Monte, CA 91731.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts
11 of the accusation not expressly admitted. Failure to file a notice of defense shall
12 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
13 may nevertheless grant a hearing.

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4492.

16 7. California Government Code section 11520 states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense or to appear at the
18 hearing, the agency may take action based upon the respondent's express admissions
19 or upon other evidence and affidavits may be used as evidence without any notice to
20 respondent.

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 4492, finds that
26 the charges and allegations in Accusation No. 4492, are separately and severally, found to be true
27 and correct by clear and convincing evidence.

28 9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$727.50 as of October 22, 2015.

///

DETERMINATION OF ISSUES

1
2 1. Based on the foregoing findings of fact, Respondent Nella Alice Tran has subjected
3 her Pharmacy Technician Registration No. TCH 124574 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
6 Registration based upon the following violations alleged in the Accusation which are supported
7 by the evidence contained in the Default Decision Evidence Packet in this case.:

8 a. Business and Professions Code sections 490, 4300, and 4301, subdivision (l), in
9 conjunction with California Code of Regulations, title 16, section 1770, in that, Respondent was
10 convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy
11 technician as follows: On or about December 3, 2014, Respondent was convicted of one felony
12 count of violating Penal Code section 311.4, subdivision (c) [using minor for sex acts] in the
13 criminal proceeding entitled *The People of the State of California v. Nella Alice Tran* (Super. Ct.
14 L. A. County, 2014, No. KA098671-05.)

15 (b) Business and Professions Code sections 726, 4300, and 4301, in that, Respondent
16 committed acts of sexual abuse.

17 (c) Business and Professions Code sections 4300, and 4301, in that Respondent
18 committed acts constituting gross immorality.

19 (d) Business and Professions Code section 726, 4300, and 4301, subdivision (f), in that,
20 Respondent committed acts and was convicted of a crime involving moral turpitude and/or
21 corruption.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 124574, heretofore issued to Respondent Nella Alice Tran, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 19, 2016.

It is so ORDERED January 20, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(NELLA ALICE TRAN)

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 DESIREE A. TULLENERS
Deputy Attorney General
4 State Bar No. 157464
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2000
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **NELLA ALICE TRAN**
4718 Arden Way
13 El Monte, CA 91731
14 Pharmacy Technician Registration No. TCH
124574
15
16 Respondent.

Case No. 4492
ACCUSATION

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.

26 ///
27 ///
28 ///

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.

6

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."

28 ///

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.

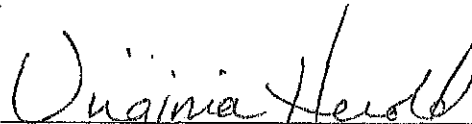
9 **PRAYER**

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