

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

In the Matter of the Accusation Against:

THUY NGOC NGUYEN TRAN,

Pharmacist License No. RPH 68523,

Respondent.

Case No. 5382

OAH No. 2016010835

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on August 19, 2016.

It is so ORDERED on July 20, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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PROPOSED DECISION

Matthew Goldsby, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on June 9, 2016, at Los Angeles, California.

Elyse M. Davidson, Deputy Attorney General, appeared and represented complainant Virginia Herold, Executive Officer of Board of Pharmacy (Board), Department of Consumer Affairs.

Ivan Petrzelka, attorney at law, appeared and represented respondent Thuy Ngoc Nguyen Tran.

The parties submitted the matter for decision at the conclusion of the hearing.

FACTUAL FINDINGS

1. Complainant brought the Accusation in her official capacity. Respondent timely submitted a Notice of Defense.
2. On December 20, 2012, the Board issued respondent Pharmacist License number RPH 68523. Respondent's license is valid and is scheduled to expire on November 30, 2016.
3. On July 17, 2007, the Alabama State Board of Pharmacy (Alabama Board) issued respondent Pharmacist License number 15583 (Alabama License). The Alabama Board brought a Statement of Charges against respondent alleging multiple violations of the Alabama Pharmacy Practice Act. Respondent waived her right to a fair hearing and stipulated to a Consent Order, expressly denying the allegations of the Statement of Charges.

Pursuant to the Consent Order, the Alabama Board placed respondent's license on five years' probation beginning May 14, 2013, and assessed an administrative fine in the sum of \$6,000.

4. The facts and circumstances of the Alabama disciplinary action arose from the following series of prescriptions filled by respondent while working as a pharmacist in Alabama, established by respondent's testimony and documentary evidence presented at the hearing on this matter:

(A) Between May 4, 2010 and January 14, 2012, respondent filled eight prescriptions for herself, including Robitussin, a Schedule V controlled substance.¹ On each occasion, respondent's sister, a licensed California physician, ordered the prescription by telephone. None of these actions violated Alabama or California law. However, on each prescription, respondent failed to document the date of her last physical examination with her sister as the doctor who ordered the prescription. This conduct violated the Alabama Pharmacy Practice Act.

(B) On October 5, 2010, respondent filled a prescription for Ambien, a Schedule IV controlled substance,² for a colleague. Respondent knew the colleague personally and knew that respondent's sister was also a friend of the colleague. Respondent's sister, acting as the colleague's doctor, ordered the prescription by telephone. Respondent failed to verify a legitimate doctor-patient relationship and to document the date of the consumer's last physical examination with the doctor who ordered the prescription. The conduct violated the Alabama Pharmacy Practice Act.

(C) Complainant presented no evidence to prove any other allegation set forth in her Accusation or in the Alabama Board's Statement of Charges. Complainant presented no points and authorities to show that the offenses violated any of the provisions of California Business and Professions Code sections 4000 et seq. (California Pharmacy Law).

5. Respondent satisfied in full the administrative fine imposed by the Alabama Board. To date, respondent has complied with all terms of probation imposed by the Alabama Board. Probation is scheduled to expire in May 2018.

6. On December 3, 2009, respondent was charged with driving under the influence of alcohol, in violation of Alabama Code section 32-5A-191, subdivision (a)(2), a misdemeanor. (*Alabama v. Tran* (Muni. Ct. Mobile County, 2009, No. R200930591).) The

¹ Official notice is taken that the United States Drug Enforcement Administration (DEA) website states: "Schedule V drugs, substances, or chemicals are defined as drugs with lower potential for abuse than [Schedules I- IV] and consist of preparations containing limited quantities of certain narcotics. Schedule V drugs are generally used for antidiarrheal, antitussive, and analgesic purposes."

² Official notice is taken that the DEA website states: "Schedule IV drugs, substances, or chemicals are defined as drugs with a low potential for abuse and low risk of dependence."

charges arose on July 8, 2009, when respondent drove a motor vehicle while she had a blood-alcohol content of 0.13 percent. On November 29, 2010, after respondent completed a 12-month alcohol program and paid all required fines, the court dismissed the charges as “nol prossed.”³

7. No evidence was presented to show that respondent has any other criminal record, any employment discipline, or any other licensing discipline.

8. Respondent disclosed to the Board the discipline imposed by the Alabama Board. On October 25, 2014, respondent acknowledged her wrongdoing and apologized to the Board. She described changes in her custom and practice, stating “I know that this is important to ensure public health.” (Ex. 8.) On June 2, 2016, she wrote the Board “to provide additional information about my mitigation efforts related to the misconduct that gave rise to the [Alabama Board’s Consent Order],” furnishing details about her community service activities. (Ex. F.) Respondent and her cousin volunteer together to collect nonperishable items for a local food bank. In the winter, respondent organized a small group of friends and neighbors to assemble backpacks with basic necessities, including snacks, toothbrushes, socks, sweaters, and drinking water, and distributed them to homeless people at MacArthur Park. Respondent has donated or funded the acquisition of classroom equipment and supplies for a local school. She has volunteered at events for English as a Second Language (ESL), helping immigrants practice their English and learn conjugations and pronunciations.

9. Respondent presented three character reference letters. Respondent’s cousin acknowledged respondent’s “transgression,” and described their charitable activities together, supplementing and corroborating respondent’s evidence of rehabilitation as set out in Factual Finding 8. (Ex. C.) A director at respondent’s church described respondent as “a woman of integrity and honesty” and wrote that “her transgression . . . is a source of intense regret and embarrassment.” (Ex. D.) A California licensee wrote a compelling and comprehensive account of respondent’s positive influence on the writer’s professional development. Having worked under respondent’s supervision and observed her work ethic, the licensee concluded, “I find it very difficult to believe that [respondent] would be in some kind of a bind with [the Board]. I know her to be an immensely trustworthy, honest, and ethical pharmacist and friend.” (Ex. E.)

10. On April 14, 2016, and June 2, 2016, respondent completed seven hours of continuing education credits in courses including Risk Evaluation and Mitigation Strategy, The Balancing Act with Controlled Substances, a Federal Pharmacy Law Survival Guide, Ethics and Pharmacy, Preventing Medication-Related Falls through Appropriate Medication Use, and others.

³ Alabama courts use the Latin term “nol prossed” to reflect that no charges were prosecuted.

11. The Board incurred reasonable costs in the amount of \$4,352.50 in its investigation and enforcement of this matter.

LEGAL CONCLUSIONS

1. Complainant has the burden of proving cause for discipline by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.)

2. The Board shall take action against any licensee who is guilty of unprofessional conduct. (Bus. & Prof. Code, §4301.)

3. Unprofessional conduct includes discipline imposed by another state upon a license to practice pharmacy. (Bus. & Prof. Code, §4301, subd. (n).)

4. Unprofessional conduct includes the violation of any provision or term of state law governing pharmacy, including regulations established by any other state or federal regulatory agency. (Bus. & Prof. Code, § 4301, subd. (o).)

5. In this case, respondent engaged in unprofessional conduct by violating provisions of the Alabama Pharmacy Practice Act in relation to prescriptions she filled and dispensed. Moreover, she engaged in unprofessional conduct because the Alabama Board disciplined her license and put her on probation for five years.

6. Cause exists to discipline the respondent's license under Business and Professions Code section 4301, subdivisions (n) and (o). (Factual Findings 1-4.)

7. However, when considering the degree of discipline to impose, the Board must consider its regulations and disciplinary guidelines. (Cal. Code Regs., tit. 16, § 1760: "Disciplinary Guidelines; A Manual of Disciplinary Guidelines and Model Disciplinary Orders" (Rev. 10/2007).) Specifically, the Board must take into account the following factors, among others, when determining whether to impose the minimum, maximum, or intermediate penalty:

- (A) The actual or potential harm to the public or any consumer.
- (B) Any prior disciplinary record, including level of compliance with disciplinary orders.
- (C) Any prior warnings, including, but not limited to, citations and fines, letters of admonishment, and correction notices.
- (D) The number or variety of current violations.
- (E) The nature and severity of respondent's offense.

- (F) Any aggravating evidence.
- (G) Any mitigating evidence.
- (H) Respondent's total criminal record.
- (I) The time that has elapsed since commission of the offense.
- (J) Whether the conduct was intentional, negligent, or demonstrated incompetence
- (K) Any financial benefit to respondent from the misconduct.
- (L) All other evidence of rehabilitation.

8. In this case, respondent dispensed drugs without required documentation, a potential hazard to a consumer. However, the drugs dispensed posed a low potential for abuse and low risk of dependence. Respondent's offenses caused no actual harm to anyone. The offenses were minor in that, although respondent was disciplined for violating the Alabama Pharmacy Practice Act, complainant failed to present sufficient evidence, points, or authorities to show that the conduct violated the California Pharmacy Law. The offenses occurred more than four years ago and respondent has engaged in no unlawful conduct since the Alabama Board imposed discipline. To date, she has complied with all terms of her probation.

9. Respondent has no criminal record, except one unprosecuted charge for driving under the influence of alcohol, a misdemeanor. Because the alcohol-related offense occurred more than seven years ago with no interim or corroborating evidence of alcohol abuse, the conduct has negligible evidentiary effect. Her substantial charitable activities conferred a social benefit to the community and exhibit good character. The absence of any record of employment discipline or prior licensing discipline favors a lenient imposition of discipline. Accordingly, imposing standard probationary terms for three years, the minimum penalty under the disciplinary guidelines, will be sufficient to protect the public.

10. A licensee's violation of the licensing act entitles the Board to recover all reasonable costs incurred to investigate and prosecute the violation. (Bus. & Prof. Code, § 125.3.)

11. Complainant has presented satisfactory proof that the Board incurred reasonable costs in the amount of \$4,352.50 to investigate and enforce the matter against respondent. Accordingly, cause exists to award costs of investigation and enforcement, pursuant to Business and Professions Code section 125.3. (Factual Finding 11.)

ORDER

Pharmacist License Number RPH 68523, issued to respondent Thuy Ngoc Nguyen Tran, is revoked. However, the revocation is stayed for a period of three years, and respondent is placed on probation under the following terms and conditions.

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

(A) An arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws.

(B) A plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment.

(C) A conviction of any crime.

(D) Any discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

2. Report to the Board

Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of respondent's compliance with the terms and conditions of her probation. Failure to cooperate shall be considered a violation of probation.

5. Continuing Education

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board or its designee.

6. Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 5382 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment, respondent shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individuals have read the decision in case number 5382, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employers and supervisors submit timely acknowledgments to the Board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the Board of the terms and conditions of the decision in case number 5382 in advance of respondent commencing work at each licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment by or through a pharmacy employment

service, respondent shall cause her direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 5382 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employers and supervisors submit timely acknowledgments to the Board.

Failure to timely notify any present or prospective employers or to cause those employers to submit timely acknowledgments to the Board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

7. No Supervision

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

8. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$4,352.50. Respondent shall make payments to the Board as follows: Respondent shall pay installments of no less than \$145 per month, due on the first day of every month, beginning in the month following the effective date of this decision, and continuing for 30 months or until paid in full.

There shall be no deviation from this schedule absent prior written approval by the Board or its designee. Failure to pay costs by the deadlines as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to reimburse the Board its costs of investigation and prosecution, unless otherwise determined by a court of competent jurisdiction.

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9. Probation Monitoring Costs

Respondent shall pay any costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to pay such costs by the deadlines as directed shall be considered a violation of probation.

10. Status of License

Respondent shall, at all times while on probation, maintain an active, current license with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

11. License Surrender While on Probation

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender her license to the Board for surrender. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the Board.

Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board, including payment of any outstanding costs.

12. Notification of Changes

Respondent shall notify the Board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known.

Respondent shall further notify the Board in writing within 10 days of a change in name, residence address, mailing address, or phone number.

Failure to timely notify the Board of any change in employer, name, address, or phone number shall be considered a violation of probation.

13. Tolling of Probation

Respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 20 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease practicing as a pharmacist for a minimum of 20 hours per calendar month in California, respondent must notify the Board in writing within 10 days of the cessation of practice, and must further notify the Board in writing within 10 days of the resumption of practice. Any failure to provide such notification shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 36 months.

"Cessation of practice" means any calendar month during which respondent is not practicing as a pharmacist for at least 20 hours, as defined by Business and Professions Code section 4000 et seq. "Resumption of practice" means any calendar month during which respondent is practicing as a pharmacist for at least 20 hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

14. Violation of Probation

If a respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and

revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

15. Completion of Probation

Upon written notice by the Board or its designee indicating successful completion of probation, respondent's license will be fully restored.

DATED: June 20, 2016

DocuSigned by:

Matthew Goldsby

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MATTHEW GOLDSBY
Administrative Law Judge
Office of Administrative Hearings

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

11 In the Matter of the Accusation Against:

Case No. 5382

12 **THUY NGOC NGUYEN TRAN**
13 511 S. Park View St., #308
Los Angeles, CA 90057

A C C U S A T I O N

14 Pharmacist License No. RPH 68523

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about December 20, 2012, the Board of Pharmacy (Board) issued Pharmacist
22 License No. RPH 68523 to Thuy Ngoc Nguyen Tran (Respondent). The Pharmacist License was
23 in full force and effect at all times relevant to the charges brought herein and will expire on
24 November 30, 2016, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Disciplinary Action by the Alabama State Board of Pharmacy)

3 8. Respondent is subject to disciplinary action under section 4301, subdivision (n), on the
4 grounds of unprofessional conduct, in that Respondent was disciplined by the Alabama State
5 Board of Pharmacy ("Alabama Board"), as follows:

6 9. On or about May 14, 2013, the Alabama Board issued a Consent Order, placing
7 Respondent's Pharmacist License on probation for a period of five (5) years, with terms and
8 conditions in the disciplinary matter entitled *In the Matter of: Thuy Ngoc Nguyen Tran aka*
9 *Isabelle Tran*, License No. 15583. The circumstances underlying the disciplinary action by the
10 Alabama Board are, as follows:

11 a. Respondent received, and in some cases, dispensed medications to herself knowing
12 there was not a valid patient-physician relationship justifying the dispensing of the referenced
13 medication, in violation of the Code of Alabama (1975), section 34-23-33(6).

14 b. Respondent violated Alabama State Board of Pharmacy Rule 680-X-2.13 relating to
15 the prescriptions she filled or dispensed, in that they failed to include the prescriber's directions for
16 use, in violation of the Code of Alabama (1975), section 34-23-33(12).

17 c. Respondent dispensed controlled substances included in Schedule IV of the Alabama
18 Uniform Controlled Substance Act, without a written or oral prescription of a practitioner, by
19 selling, furnishing, giving away, delivering or distributing unknown amounts of Ambien to O.C., in
20 violation of the Code of Alabama (1975), sections 34-23-33(2), 20-2-58(e), and 20-2-71(a)(1).

21 d. Respondent failed to maintain inventories and records of controlled substances listed in
22 Schedule IV of the Alabama Uniform Controlled Substance Act, in violation of the Code of
23 Alabama (1975), sections 34-23-33(2), 20-2-58(d)(1), 20-2-58(d)(2), and 20-2-71(a)(3).

24 e. Respondent unlawfully sold, furnished, gave away, delivered or distributed unknown
25 amounts of controlled substances to O.C., which are controlled substances included in Schedule
26 IV of the Alabama Uniform Controlled Substance Act, in violation of the Code of Alabama
27 (1975), sections 34-23-33(2) and 13A-12-211.

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1 f. Respondent dispensed unknown amounts of controlled substances without a
2 prescription from a licensed practitioner authorized to prescribe such a drug, or dispensed the
3 same as a refilled prescription without the expressed authorization of the prescriber, in violation of
4 the Code of Alabama (1975), sections 34-23-33(2) and 34-23-70(1).

5 g. Respondent violated the Code of Alabama (1975), section 34-23-33(6), based on any
6 or all of the allegations listed as Counts Two, Three, Four and/or Five on the Statement of
7 Charges and Notice of Hearing.

8 h. Respondent assisted or enabled an unlicensed person to practice pharmacy, by
9 allowing T.T. to perform duties, to include compounding and dispensing prescriptions, as an
10 Extern/Intern knowing he did not have a license or valid permit to do so, in violation of the Code
11 of Alabama (1975), section 34-23-33(8).

12 i. Respondent violated the Code of Alabama (1975), sections 34-23-33(7) and 34-23-50,
13 based on the allegations of the preceding Count in the Statement of Charges and Notice of
14 Hearing.

15 j. Respondent violated Alabama State Board of Pharmacy Rule 680-X-2.12, by failing as
16 the supervising pharmacist of Wal-Mart 866, to insure that the prescription department of Wal-
17 Mart was operating with good pharmaceutical practices and by failing to insure compliance with
18 the provisions of the Pharmacy Practice Act, Code of Alabama (1975), and the Alabama Uniform
19 Controlled Substance Act.

20 k. Respondent violated Alabama State Board of Pharmacy Rule 680-X-2.22(2)(d), based
21 on any or all of the allegations of the preceding Counts, in violation of the Code of Alabama
22 (1975), section 34-23-33(13).

23 l. Respondent violated the provisions of the Code of Alabama, based on the allegations
24 contained in any or all of the preceding Counts of the Statement of Charges and Notice of
25 Hearing, in violation of the Code of Alabama (1975), sections 20-2-54(a)(4) and 34-23-1 et seq.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Violating Provisions of the Pharmacy Act)**

3 10. Respondent is subject to disciplinary action under section 4301, subdivision (o), in that
4 Respondent violated provisions of the Pharmacy Practice Act. Complainant refers to, and by this
5 reference incorporates, the allegations set forth above in paragraphs 8 and 9, inclusive, as though
6 set forth fully.

7 **DISCIPLINARY CONSIDERATIONS**

8 11. In order to determine the degree of discipline, if any to be imposed on Respondent,
9 Complainant alleges that on or about December 3, 2009, Respondent was charged with one
10 misdemeanor count of violating Alabama Code section 32-5A-191, subdivision (a)(2) [driving
11 under the influence of alcohol] in the criminal proceeding entitled *The State of Alabama v. Thuy*
12 *Ngoc Nguyen Tran* (Muni. Ct. Mobile County, 2009, No. TR200930591). The Court ordered
13 Respondent to complete a 12 month driving under the influence program and ordered her to pay
14 fines and restitution. The circumstances surrounding the charges are that on or about July 8, 2009,
15 Respondent drove a vehicle while having a blood-alcohol content level of 0.13%.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacist License No. RPH 68523, issued to Thuy Ngoc
20 Nguyen Tran;

21 2. Ordering Thuy Ngoc Nguyen Tran to pay the Board of Pharmacy the reasonable costs
22 of the investigation and enforcement of this case, pursuant to Business and Professions Code
23 section 125.3; and

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

DATED: 8/17/15

Virginia Herold

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

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