

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

In the Matter of the Statement of Issues
Against:

HIEU TRONG NGUYEN,

Pharmacy Technician Registration Applicant,

Respondent.

Case No. 5444

OAH No. 2015110255

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 March 30, 2016.

It is so ORDERED on February 29, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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Respondent.

No. 5444

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PROPOSED DECISION

Administrative Law Judge Perry O. Johnson, State of California, Office of Administrative Hearings, heard this matter on January 6, 2016, in Oakland, California.

Deputy Attorney General Lillian Y. Tabe represented complainant Virginia Herold, Executive Officer, the Board of Pharmacy, Department of Consumer Affairs.

Hieu Trong Nguyen was present for the hearing; but, he was not otherwise represented.

On January 6, 2016, the parties submitted the matter for decision and the record closed.

FACTUAL FINDINGS

1. On September 5, 2015, Virginia Herold, Executive Officer (complainant), Board of Pharmacy, Department of Consumer Affairs, State of California (board), in her official capacity, filed Statement of Issues No. 5444 against respondent Hieu Trong Nguyen (respondent). Respondent filed a timely Request for Hearing.

2. On May 19, 2014, respondent signed an application for registration as a Pharmacy Technician. He submitted the application to the board, which received the document on June 2, 2014. By the document, respondent certified as true and correct all of his responses to questions on the board's application form.

3. In response to item number seven on page two of the board's application for licensure as a Pharmacy Technician, respondent failed to correctly disclose the record of a criminal conviction as detailed in Factual Finding 5, below. And, under question number seven on the application form, respondent provided no information regarding the particulars¹ of his past arrest and conviction as described in Factual Finding 7, below.

By his failure to provide the board with the true record of the conviction incurred by him in March 2011, respondent presented the board with incorrect and false or misleading information regarding his history of incurring a criminal conviction.

4. On March 15, 2015, the board's assistant executive officer sent respondent a letter denying the application for licensure. On March 24, 2015, respondent wrote a letter appealing the denial of his application to acquire registration as a pharmacy technician.

Causes for Denial of Licensure

CRIMINAL CONVICTION

5. On March 18, 2011, in the California Superior Court for the County of Alameda, under case number 232461-8, respondent, on his plea of nolo contendere, was convicted of violating Penal Code section 524² (attempted extortion), a misdemeanor.

6. The crime of attempted extortion is substantially related to the qualifications, functions, and duties of a Pharmacy Technician. Such crime evidences present or potential unfitness to act as a board licensee.

7. The facts and circumstances of respondent's criminal conduct, which led to the March 2011 conviction, occurred approximately between August 28, 2008, and September 4, 2008, in the City of Newark (Alameda County), California. Over that period of about six days, while using a false name, respondent enticed a young woman into a bedroom of his parents' home so as engage in sexual acts. Unknown to the 28 year-old-woman, respondent

¹ The board's application reflects four columns with the following headings: "arrest date"; "conviction date"; violation(s); and, "court of jurisdiction (full name and address)." Those columns follow a sentence, which is typed in bold print that reads, "Failure to disclose a . . . conviction may result in the license being denied . . . Attach additional sheets if necessary."

² Penal Code section 524, defines "attempted extortion" as an offense committed by means of threat . . . to extort money or property from another . . ." That section alludes to Penal Code section 519, which notes "fear," as the emotion induced by a threat of extortion, used "to expose, or to impute to [the crime victim with], any "disgrace", or "to expose any secret affecting" the crime victim. And, under Penal Code section 518 extortion is defined as the unlawful "obtaining of property from another, without [her] consent . . . induced by a wrongful use of force or fear . . ."

had positioned in the bedroom a digital recorder to film the couple's sexual escapade. Beginning on September 2, 2008, respondent began sending text messages to the woman stating, in essence: that he had filmed their sexual acts; that he had "burned" the computerized images onto a compact disc (CD); that he had learned that internet sites for pornographic content paid for sex films; and, that if the woman did not pay give him \$5,000 that he would sell the CD to an internet porn site. He sent a second set of text messages on September 4, 2008.

On September 23, 2008, the young woman made a complaint to Newark City Police Department officers that respondent had raped her and that she was the victim of respondent's efforts at "blackmail." After the police conducted an exhaustive investigation, respondent was extensively interviewed by police on January 12, 2009, for attempted extortion (Pen. Code, § 524), a felony, and the crime of unauthorized use of a camera to secretly film another person undressed with the intent to invade the privacy of the other person (Pen. Code, § 647, subd. (j)), a misdemeanor. On January 21, 2009, the county's district attorney's office filed a criminal complaint against respondent alleging the felony count of attempted extortion and the aforementioned misdemeanor, and a warrant issued for respondent's arrest. (By his testimony at the hearing of this matter, respondent vividly detailed that he moved out-of-state for approximately two years.) On March 18, 2011, after a plea bargain, the superior court accepted respondent's no contest plea for a misdemeanor offense under Penal Code section 524, and the charge under Penal Code section 647, subdivision (j), was dismissed.

8. As a result of the March 2011 conviction, the superior court suspended imposition of sentence and placed respondent on "conditional, revocable release to the community" for a period of three years, under terms and conditions of probation. The terms and conditions of probation included a provision that respondent spend one day in jail, for which credit was granted respondent for time served. Also, the superior court directed respondent to pay fines and fees of \$170. And, the superior court commanded respondent to stay away from the crime victim.

COMMITTED ACT OF DISHONEST, FRAUD, OR DECEIT

9. The facts and circumstances underpinning respondent's scheme in 2008 regarding his attempted extortion of the crime victim, indicate that respondent committed acts of dishonesty, fraud and deceit - when he enticed the crime victim into engaging in sexual acts, which were clandestinely recorded in a digital film; and, when he attempted to extort \$5,000 from the crime victim.

10. Respondent's failure to disclose, onto the board's application for licensure, the conviction he had received in March 2011 indicates that respondent attempted to procure a Pharmacy Technician Registration by fraud, misrepresentation, or deceit, or that he willfully uttered a material misstatement of fact in the application.

COMMITTED ACT THAT IF DONE BY LICENTIATE WOULD BE CAUSE FOR DISCIPLINE

11. Respondent's conduct as set out in Factual Findings 3 and 7 involved acts that if done by a Pharmacy Technician licentiate would constitute grounds for discipline.

FALSE STATEMENT ON APPLICATION FOR LICENSURE

12. As set out in Factual Finding 7, respondent made a false statement on the application for a Pharmacy Technician Registration when he answered "no" to the application's question asking whether he had ever sustained a conviction in any state.

Matters in Mitigation and Respondent's Background

13. Currently, respondent is 36 years old. He appears to be an intelligent person.

14. In 1998, respondent graduated from Skyline High School in Oakland, California

15. Since 2009 or 2010, respondent has maintained his residence at his mother's house in Newark (Alameda County), California.

16. In July 2012, the California Board of Barbering and Cosmetology issued respondent a license as a Finger Nail Technician. Although he studied at the Beauty College of Cosmetology in Oakland and secured a "Nail Tech" license, respondent has never worked in the cosmetology/nail salon industry because of a partially amputated thumb on his left hand.

17. For approximately six months ending early 2014, respondent was enrolled in Fremont College where he studied courses pertaining to the work of the occupation of Pharmacy Technician.

Matters in Rehabilitations Following the Criminal Convictions Noted Above

18. On February 26, 2014, in case number 232461-8, the superior court issued orders under Penal Code sections 17 and 1203.4. The orders granted respondent's petition for early termination of probation and expunged the record of conviction for attempted extortion.

19. Respondent resides at his mother's house in Newark, along with his 26-year-old brother. (Respondent's brother holds a Pharmacy Technician Registration. It was respondent's brother who encouraged him to pursue entering the occupation.)

Matters that Indicate that Respondent is Not Fully Rehabilitated

20. Only one year and three months elapsed between the date of the superior court orders under Penal Code sections 17 and 1203.4, which granted early termination of probation and expunged the record of the attempted extortion conviction, and the date that respondent filed her application for licensure with the department. Hence, there has been an insubstantial amount of time for the board to determine respondent's rehabilitation.

21. Respondent has not been employed in any work since approximately 2009. He depends on his young brother and his mother for his financial support. Respondent unpersuasively asserts that over the past several years, he stays at home, all day and every day, watching television and "crying his eyes out" for the mistake in his past.

22. Complainant called Ms. Anne Hunt as a witness to the hearing of matter. Ms. Hunt, a licensed pharmacist with approximately 19 years of experience in the profession, is now employed as a Supervising Investigator for the board. Ms. Hunt offered credible and persuasive testimonial evidence.

Ms. Hunt persuasively expressed that the occupation of Pharmacy Technician requires a person to possess high standards of honesty, trustworthiness, integrity, and a "strong moral compass." The qualities of good character for the occupation are necessary because a Pharmacy Technician not only handles and participates in dispensing controlled substances, but also such licentiate has access to confidential medical records and financial information belonging to consumers.

23. Respondent called no witness to the hearing of this matter. No one appeared on respondent's behalf to offer evidence pertaining to respondent's reputation in his community for honesty and integrity.

No person came to the hearing to describe respondent's attitude towards his past criminal action that led to the conviction mentioned above. And, no individual appeared at the hearing to express an understanding of respondent's false and misleading responses to a critical question on the board's application for licensure.

24. Respondent did not show independent, corroborating proof that he has had significant and conscientious involvement in community, church, or privately-sponsored programs designed to provide social benefits or to ameliorate social problems. (He unpersuasively claimed that he goes to his local church on occasions to aid in distributing food to the poor. He offered no letter or other communication from his church to verify his assertion.)

25. By the manner of his testimony, his demeanor at various points in time at the hearing, his motive to fabricate and the inconsistency of his testimony, respondent showed that he was not³ candid and truthful at the hearing as to material topics.

26. And, while under oath to tell the truth during the rendering of his testimony at the hearing, respondent's account of the circumstance of his crime was neither credible nor compelling.

Respondent unbelievably claimed that his acts were not as sinister as recorded in the 2008 Newark City Police Department investigative report. Respondent unconvincingly asserted that in 2008, when he committed the crime of attempted extortion, he was young and under the influence of criminally inclined persons. Also, respondent unbelievably testified that he was not the person who "put together" the criminal scheme of attempting to extort \$5,000 from the crime victim. Respondent was not persuasive when he testified that someone other than him "set up" the video camera to record his sexual encounters with the crime victim. Contrary to respondent's false story the law enforcement investigative report shows that respondent acted alone without any associate or confederate in the illegal acts. Moreover, when he engaged in the crime he was 28 years old.

Further, at the hearing of this matter, respondent sought to impermissibly attack the facts and circumstances of the crime by unpersuasively arguing that the law enforcement officers' investigative report was not "100 percent accurate" as his admissions to police were prompted because he was "so scared" that he "might go to jail." And, respondent advanced a convoluted story that boiled down to his lawyer's neglect to properly provide a competent defense to the criminal charges made by the Newark police and county prosecutors. Among other things, respondent untruthfully argued that the "text messages" to the crime victim came from a cellular phone that he neither owned nor controlled.

Also, when he was subject to cross-examination at the hearing of this matter on inquiries that highlighted his false testimony, respondent argued that he could not recall the confession and admissions he made to police officers in 2008 regarding his act of "black

³ As was said by United States Supreme Court Justice Field, in *Quock Ting v. United States* (1891) 140 U.S. 417, 420-421, "Undoubtedly, as a general rule, positive testimony as to a particular fact, uncontradicted by any one, should control the decision of the court; but that rule admits of many exceptions. There may be such *an inherent improbability in the statements of a witness* as to induce the court . . . to disregard his evidence, even in the absence of any direct conflicting testimony. He may be contradicted by the facts he states as completely as by direct adverse testimony; and *there may be so many omissions in his account of particular transactions*, or of his own conduct, as to discredit his whole story. *His manner, too, of testifying may give rise to doubts of his sincerity*, and create the impression that he is giving a wrong coloring to material facts. All these things may properly be considered in determining the weight which should be given to his statements, although there be no adverse verbal testimony adduced." (Emphasis added.)

mailing” or attempted extortion. Further, respondent refused to acknowledge the investigative report’s entry that he had confessed to the crime when he testified that he was desperate for money. And, respondent was not compelling when he denied during his testimony that in 2008 he expressed to police officers that he engaged in the attempted extortion of \$5,000 from the crime victim because he was so forlorn for money that the black mailing scheme was his alternative conduct to selling drugs in order to generate an income.

27. Respondent’s rehabilitation is questionable as he disingenuously testified that his past conduct involved a “mistake” and that the crime victim should not have been believed that she was his victim to the crime of attempted extortion.

Respondent unpersuasively claims that he now only wants a “break” so as to move on with his life. But, at the hearing of this matter respondent neither displayed no concern nor voiced remorse for the grave emotional distress and significant embarrassment that his acts caused the crime victim.

28. With regard to the false statements set out as his response to the board’s application for licensure, respondent was not credible. Respondent unbelievably asserted that his answer of “no” to the application’s question of whether he had a criminal conviction record was because he “put all [his] trust in the instructor” from the school where he took classes to pass the board’s examination for licensure. Respondent was not persuasive when he testified that his instructor had respondent place the “x” to the subject question regarding criminal conviction.

Ultimate Factual Findings

29. The weight of evidence does not establish that respondent has substantial, competent evidence that he has attained rehabilitation from his past history of a criminal conviction so as to be deemed fit to hold a registration as a Pharmacy Technician. And, respondent’s act of making a false and misleading statement of the application for licensure does support a conclusion that respondent is fit to engage in the work of the subject occupation.

LEGAL CONCLUSIONS

Standard of Proof

1. The party asserting the affirmative in an administrative hearing has both the burden of proof of going forward as well as the burden of persuasion by a preponderance of the evidence. (Gov. Code, § 11504; *McCoy v. Board of Retirement* (1986) 183 Cal.App.3d 1044, 1051.)

The burden of proof is on respondent Hieu Trong Nguyen., by a preponderance of the evidence, to establish that the Pharmacy Technician Application should be granted because he

is qualified for the registration for which he applied and that complainant has no cause to deny the application.

Cause For Denial of Application for Licensure -

FIRST CAUSE FOR DENIAL - CRIMINAL CONVICTION

2. Business and Professions Code section 480, subdivision (a)(1), provides that the board may deny a license on the ground that the applicant has "been convicted of a crime . . . (that) . . . is substantially related to the qualifications, functions or duties of the business or profession for which application is made."

3. California Code of Regulations, title 16, section establishes that:

For the purpose of denial, suspension, or revocation of a personal . . . license . . . , 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.

4. Cause exists to deny respondent's application for licensure as a Pharmacy Technician registration holder under Business and Professions Code section 480, subdivision (a)(1), by reason of the matters set forth in Factual Findings 5 and 6, along with Legal Conclusions 2 and 3. Respondent has a record of a conviction of a crime substantially related to the qualifications, functions or duties of a Pharmacy Technician. And, respondent's criminal conduct evidences present or potential unfitness to hold the subject licensure status.

SECOND CAUSE FOR DENIAL - RESPONDENT'S ACTS OF DISHONESTY

5. Business and Professions Code section 480, subdivision (a)(2), provides that the board may deny a license on the ground that the applicant has "[d]one any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another."

6. Cause exists to deny respondent's application for licensure as a Pharmacy Technician registration holder under Business and Professions Code section 480, subdivision (a)(2), by reason of the matters set forth in Factual Findings 3, 7, 9, and 10, along with Legal Conclusion 5. Respondent's acts of attempted extortion as well as making a false or misleading statement on the board's licensure application involved acts of dishonesty, fraud, and deceit with the intent to substantially benefit himself. Moreover, his act of attempted extortion involved conduct that substantially injured another person, namely the crime victim.

THIRD CAUSE FOR DENIAL- ACTS THAT IF DONE BY A LICENTATE WOULD BE CAUSE FOR DISCIPLINE

7. Business and Professions Code section 480, subdivision (a)(3), sets forth that the board may deny a license when an applicant has “done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.”

8. Cause exists to deny respondent’s application for licensure as a Pharmacy Technician registration holder under Business and Professions Code section 480, subdivision (a)(3), by reason of the matters set forth in Factual Findings 3, 7 and 11, along with Legal Conclusion 7. Respondent’s acts of attempted extortion, as well as his conduct in making a false and misleading statement on the boards’ application for license, reflect acts that if done by a licentiate of the board would be grounds for suspension or revocation of license.

FOURTH CAUSE FOR DENIAL – RESPONDENT’S FALSE STATEMENT OF FACT THAT IS REQUIRED TO BE REVEALED DURING THE APPLICATION PROCESS

9. Business and Professions Code section 480, subdivision (d), provides that the board may deny a license when an applicant “has knowingly made a false statement of fact that is required to be revealed in the application for the license.”

10. Cause exists to deny respondent’s application for licensure as a Pharmacy Technician registration holder under Business and Professions Code section 480, subdivision (d), by reason of the matters set forth in Factual Findings 3, 10 and 12, along with Legal Conclusion 9. Respondent made a false statement of fact on the board’s application for licensure by denying that he had ever been convicted of a crime in any state.

Impermissible Collateral Attack Of Facts Underpinning a Criminal Conviction

11. Respondent was not credible at the hearing of this matter when he asserted he was not culpable for commission of the offense of attempted extortion for which he was convicted. Respondent proclaimed that someone other than him set up the digital camera, activated the recording device at the time of his sexual acts with the crime victim and then someone other than him sent text messages in an attempt to unlawfully take \$5,000 from the crime victim. Respondent’s representations exist as collateral attacks against the basis of the facts upon which the court determined respondent to be guilty based upon his plea.

“A final judgment of conviction is a fact; and, its effect cannot be nullified . . . either by [an] order of probation or by [a] later order dismissing the action after judgment.” (*In re Phillips* (1941) 17 Cal.2d 55.) It has long been established that it is improper for a license applicant to come before a licensing agency after a criminal conviction

to attempt to impeach a plea of guilty or a no contest plea and a resulting conviction. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449-452.)

In an administrative proceeding, a respondent cannot challenge the validity of a prior conviction. (*Thomas v. Dept. of Motor Vehicles* (1970) 3 Cal.3d 335, 337-339; *Matanky v. Board of Medical Examiners* (1979) 79 Cal.App.3d 293, 303-306.) A plea of nolo contendere admits all matters essential to the conviction. (*People v. Arwood* (1985) 165 Cal.App.3d 167, 171-172.) In this matter, respondent impermissibly embarked on a collateral attack of the facts that resulted in certain felony convictions. His versions of the events regarding his past criminal conduct were not only unbelievable, but rather his accounts showed that he has not attained rehabilitation from his past unlawful conduct.

Criteria for Evaluation of Denial of Licensure When There Exists Cause for Denial

12. California Code of Regulations, title 16, section 1769, provides in part:

(a) When considering the denial of a . . . license under Section 480 of the Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for licensing or registration, will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

The matters set out in Factual Findings 18 through 28 weigh the criteria for evaluation of whether denial of the application for licensure is appropriate.

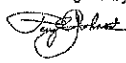
Ultimate Determination

13. It is against the public interest for respondent to acquire registration as a Pharmacy Technician.

ORDER

The application for a Pharmacy Technician Registration by respondent Hieu Trong Nguyen is denied.

DATED: January 28, 2016

DocuSigned by:

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PERRY O. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

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

10
11 In the Matter of the Statement of Issues
Against:

Case No. 5444

12 **HIEU TRONG NGUYEN**

STATEMENT OF ISSUES

13 **Pharmacy Technician Registration**
14 **Applicant**

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about June 2, 2014, the Board of Pharmacy, Department of Consumer Affairs
22 received an application for a Pharmacy Technician Registration from Hieu Trong Nguyen
23 (Respondent). On or about May 19, 2014, Hieu Trong Nguyen certified under penalty of perjury
24 to the truthfulness of all statements, answers, and representations in the application. The Board
25 denied the application on March 13, 2015.

26 ///

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28 ///

1 knowingly made a false statement of fact required to be revealed in the application for the license."

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

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

9 7. Section 493 of the Code states:

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

19 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

20 FACTUAL BACKGROUND

21 8. On or about March 18, 2011, in a criminal proceeding entitled *People of the State of*
22 *California vs. Hieu Trong Nguyen*, in Alameda County Superior Court, Case No. 232461-8,
23 Respondent was convicted by plea of nolo contendere of attempted extortion, a misdemeanor.
24 (Penal Code, § 524.) Specifically, Respondent attempted to extort money from a victim by
25 threatening to sell a video recording of the victim and him having intercourse. The court ordered
26 three years conditional sentencing, one day in county jail, and to pay fines, fees and restitution.

27 9. On or about May 19, 2014, Respondent submitted a Pharmacy Technician Application
28 to the Board. In his application, Respondent specifically denied ever being convicted of any crime

1 in any state. Respondent certified under penalty of perjury to the truthfulness of all statements,
2 answers, and representations in his application.

3 FIRST CAUSE FOR DENIAL OF APPLICATION

4 (Substantially Related Conviction)
(Bus. & Prof. Code, § 480, subd. (a)(1).)

5 10. Respondent has subjected his application for a Pharmacy Technician Registration to
6 denial in that he was convicted by plea of nolo contendere of a crime substantially related to the
7 qualifications, functions, and duties of a Pharmacy Technician. (Bus. & Prof. Code, § 480, subd.
8 (a)(1).) The circumstances are set forth in paragraph 8, above.

9 SECOND CAUSE FOR DENIAL OF APPLICATION

10 (Committed Acts of Dishonesty, Fraud, or Deceit)
(Bus. & Prof. Code, § 480, subd. (a)(2).)

11 11. Respondent has subjected his application for a Pharmacy Technician Registration to
12 denial in that he made a false statement in his application by denying that he had ever been
13 convicted of any crime in any state. (Bus. & Prof. Code, § 480, subd. (a)(2).) The circumstances
14 are set forth in paragraphs 8 and 9, above.

15 THIRD CAUSE FOR DENIAL OF APPLICATION

16 (Committed Acts which if Done by Licensee Would be Cause for Discipline)
(Bus. & Prof. Code, § 480, subd. (a)(3).)

17 12. Respondent has subjected his application for a Pharmacy Technician Registration to
18 denial in that he committed acts, which if done by a Pharmacy Technician, would constitute
19 grounds for discipline. (Bus. & Prof. Code, § 480, subd. (a)(3).) The circumstances are set forth
20 in paragraphs 8 and 9, above.

21 FOURTH CAUSE FOR DENIAL OF APPLICATION

22 (Made False Statement of Fact that is Required to be Revealed in Application)
(Bus. & Prof. Code, § 480, subd. (d).)

23 13. Respondent has subjected his application for a Pharmacy Technician Registration to
24 denial in that he made a false statement of fact in his application by denying that he had ever been
25 convicted of any crime in any state. (Bus. & Prof. Code, § 480, subd. (a)(2).) The circumstances
26 are set forth in paragraphs 8 and 9, above.

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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. Denying the application of Hieu Trong Nguyen for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 9/5/15 Virginia Herold

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

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