

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

In the Matter of the Accusation Against:

**TRANSON THEBAO NGUYEN
64 Reunion
Irvine, CA 92603**

Pharmacist License No. RPH 54495

Respondent.

Case No. 6235

OAH No. 2018020912

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order 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 September 5, 2018.

It is so ORDERED on August 6, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Victor Law, R.Ph.
Board President

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
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13 **64 Reunion**
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14 **Pharmacist License No. RPH 54495**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.
16

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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 K. Herold (Complainant) is the Executive Officer of the California State
22 Board of Pharmacy (Board). She brought this action solely in her official capacity and is
23 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
24 Daniel J. Cross, Deputy Attorney General.

25 2. Respondent Transon Thebao Nguyen (Respondent) is represented in this proceeding
26 by attorney Ivan Petrzela, whose address is: California Pharmacy Lawyers, 49 Discovery, Suite
27 240, Irvine, CA 92618-6713.

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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 seventy- two (72) hours of such occurrence:

- 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
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent’s 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(s) 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

1 designee. Failure to appear for any scheduled interview without prior notification to board staff,
2 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
3 the period of probation, shall be considered a violation of probation.

4 **4. Cooperate with Board Staff**

5 Respondent shall timely cooperate with the board's inspection program and with the board's
6 monitoring and investigation of respondent's compliance with the terms and conditions of his
7 probation, including but not limited to: timely responses to requests for information by board
8 staff; timely compliance with directives from board staff regarding requirements of any term or
9 condition of probation; and timely completion of documentation pertaining to a term or condition
10 of probation. Failure to timely cooperate shall be considered a violation of probation.

11 **5. Continuing Education**

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

14 **6. Reporting of Employment and Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 6235 and the terms, conditions and restrictions imposed
17 on respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
19 undertaking any new employment, respondent shall report to the board in writing the name,
20 physical address, and mailing address of each of his employer(s), and the name(s) and telephone
21 number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in-charge, designated
22 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
23 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
24 employment. Respondent shall sign and return to the board a written consent authorizing the
25 board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and
26 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,
27 concerning respondent's work status, performance, and monitoring. Failure to comply with the
28 requirements or deadlines of this condition shall be considered a violation of probation.

1 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
2 respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b)
3 his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
4 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
5 board in writing acknowledging that the listed individual(s) has/have read the decision in case
6 number 6235, and terms and conditions imposed thereby. If one person serves in more than one
7 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
8 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
9 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
10 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in
11 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
12 in case number 6235, and the terms and conditions imposed thereby.

13 If respondent works for or is employed by or through an employment service, respondent
14 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
15 of the decision in case number 6235, and the terms and conditions imposed thereby in advance of
16 respondent commencing work at such licensed entity. A record of this notification must be
17 provided to the board upon request.

18 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
19 (15) days of respondent undertaking any new employment by or through an employment service,
20 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service
21 to report to the board in writing acknowledging that he or she has read the decision in case
22 number 6235, and the terms and conditions imposed thereby. It shall be respondent's
23 responsibility to ensure that these acknowledgment(s) are timely submitted to the board.

24 Failure to timely notify present or prospective employer(s) or failure to cause the identified
25 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
26 shall be considered a violation of probation.

27 "Employment" within the meaning of this provision includes any full-time, part-time,
28 temporary, relief, or employment/management service position as a Licensed Pharmacist, or any

1 position for which a Pharmacist License is a requirement or criterion for employment, whether
2 the respondent is an employee, independent contractor or volunteer.

3 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

4 Respondent shall further notify the board in writing within ten (10) days of any change in
5 name, residence address, mailing address, e-mail address or phone number.

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

8 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

9 During the period of probation, respondent shall not supervise any intern pharmacist, be the
10 pharmacist-in-charge, designated representative-in-charge, responsible manager or other
11 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
12 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

13 **9. Reimbursement of Board Costs**

14 As a condition precedent to successful completion of probation, respondent shall pay to the
15 board its costs of investigation and prosecution in the amount of \$2,542.50. Respondent shall be
16 permitted to pay these costs in a payment plan approved by the board or its designee, so long as
17 full payment is completed no later than one (1) year prior to the end date of probation. Failure to
18 pay costs by the deadline(s) as directed shall be considered a violation of probation.

19 **10. Probation Monitoring Costs**

20 Respondent shall pay any costs associated with probation monitoring as determined by the
21 board each and every year of probation. Such costs shall be payable to the board on a schedule as
22 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
23 be considered a violation of probation.

24 **11. Status of License**

25 Respondent shall, at all times while on probation, maintain an active, current Pharmacist
26 License with the board, including any period during which suspension or probation is tolled.
27 Failure to maintain an active, current Pharmacist License shall be considered a violation of
28 probation.

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

5 **12. License Surrender While on Probation/Suspension**

6 Following the effective date of this decision, should respondent cease practice due to
7 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
8 respondent may relinquish his license, including any indicia of licensure issued by the board,
9 along with a request to surrender the license. The board or its designee shall have the discretion
10 whether to accept the surrender or take any other action it deems appropriate and reasonable.
11 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to
12 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
13 become a part of the respondent's license history with the board.

14 Upon acceptance of the surrender, respondent shall relinquish his pocket and/or wall
15 license, including any indicia of licensure not previously provided to the board within ten (10)
16 days of notification by the board that the surrender is accepted if not already provided.
17 Respondent may not reapply for any license from the board for three (3) years from the effective
18 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
19 of the date the application for that license is submitted to the board, including any outstanding
20 costs.

21 **13. Practice Requirement – Extension of Probation**

22 Except during periods of suspension, respondent shall, at all times while on probation, be
23 employed as a Licensed Pharmacist in California for a minimum of 40 hours per calendar month.
24 Any month during which this minimum is not met shall extend the period of probation by one
25 month. During any such period of insufficient employment, respondent must nonetheless comply
26 with all terms and conditions of probation, unless respondent receives a waiver in writing from
27 the board or its designee.

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1 If respondent does not practice as a Licensed Pharmacist in California for the minimum
2 number of hours in any calendar month, for any reason (including vacation), respondent shall
3 notify the board in writing within ten (10) days of the conclusion of that calendar month. This
4 notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s)
5 for the interruption or reduction in practice; and the anticipated date(s) on which respondent will
6 resume practice at the required level. Respondent shall further notify the board in writing within
7 ten (10) days following the next calendar month during which respondent practices as a Licensed
8 Pharmacist in California for the minimum of hours. Any failure to timely provide such
9 notification(s) shall be considered a violation of probation.

10 It is a violation of probation for respondent's probation to be extended pursuant to the
11 provisions of this condition for a total period, counting consecutive and non-consecutive months,
12 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
13 probation period on its website.

14 14. Violation of Probation

15 If respondent has not complied with any term or condition of probation, the board shall
16 have continuing jurisdiction over respondent, and the board shall provide notice to respondent
17 that probation shall automatically be extended, until all terms and conditions have been satisfied
18 or the board has taken other action as deemed appropriate to treat the failure to comply as a
19 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
20 board or its designee may post a notice of the extended probation period on its website.

21 If respondent violates probation in any respect, the board, after giving respondent notice
22 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
23 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
24 probation, or the preparation of an accusation or petition to revoke probation is requested from
25 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
26 probation shall be automatically extended until the petition to revoke probation or accusation is
27 heard and decided.

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1 **15. Completion of Probation**

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

4 **16. Pharmacists Recovery Program (PRP)**

5 By no later than ten (10) days after the effective date of this decision, respondent shall have
6 completed all of the following: contacted the Pharmacists Recovery Program (PRP) for
7 evaluation; enrolled in the PRP if recommended by the PRP; if required to enroll in the PRP,
8 completed, signed, and returned the treatment contract as well as any addendums required or
9 suggested by the PRP; successfully completed registration for any drug or alcohol testing
10 mandated by the treatment contract and/or by enrollment in the PRP; and begun compliance with
11 the drug or alcohol testing protocol(s), if applicable. If required to enroll, respondent shall
12 successfully participate in the PRP and complete the treatment contract and any addendums
13 required or suggested by the PRP. The costs for PRP participation shall be borne by the
14 respondent.

15 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of
16 the effective date of this decision is no longer considered a self-referral under Business and
17 Professions Code section 4362 (a)(2). Respondent shall successfully participate in and complete
18 his or her current contract and any subsequent addendums with the PRP.

19 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
20 timely paid to the PRP shall constitute a violation of probation. The board will collect unpaid
21 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

22 Any of the following shall result in the automatic suspension of practice by respondent and
23 shall be considered a violation of probation:

24 Failure to contact, if applicable, complete enrollment, and execute and return the
25 treatment contract with the PRP, including any addendum(s), within ten (10) days of the effective
26 date of the decision as directed by the PRP;

27 If required to enroll in the PRP, failure to complete registration for any drug or
28 alcohol testing mandated by the treatment contract and/or by the PRP, and begin compliance with

1 the testing protocol(s), within ten (10) days of the effective date of the decision as directed by the
2 PRP;

3 If required to enroll in the PRP, failure to comply with testing protocols regarding
4 daily check-in and/or failure to complete a mandated test as directed by the PRP;

5 Any report from the PRP of material non-compliance with the terms and conditions
6 of the treatment contract and/or any addendum(s); or

7 Termination by the PRP for non-compliance, failure to derive benefit, or as a public
8 risk.

9 Respondent may not resume the practice of pharmacy until notified by the board in writing.

10 Probation shall be automatically extended until respondent successfully completes the PRP
11 if required to enroll. The board will provide notice of any such suspension or extension of
12 probation.

13 During any suspension, respondent shall not enter any pharmacy area or any portion of the
14 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug
15 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
16 any area where dangerous drugs and/or dangerous devices or controlled substances are
17 maintained. Respondent shall not practice as a Licensed Pharmacist nor do any act involving
18 drug selection, selection of stock, manufacturing, compounding, dispensing or patient
19 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
20 board, or have access to or control the ordering, distributing, manufacturing or dispensing of
21 dangerous drugs and/or dangerous devices or controlled substances.

22 During any suspension, respondent shall not engage in any activity that requires the
23 professional judgment of and/or licensure as a Licensed Pharmacist. Respondent shall not direct
24 or control any aspect of the practice of pharmacy, or of the manufacturing, distributing,
25 wholesaling, or retailing of dangerous drugs and/or dangerous devices or controlled substances.

26 Failure to comply with any requirement or deadline stated by this term shall be considered a
27 violation of probation.

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1 **17. Drug and Alcohol Testing**

2 Respondent, at his own expense, shall participate in testing as directed by the board or its
3 designee for the detection of alcohol, controlled substances, and dangerous drugs and/or
4 dangerous devices. Testing protocols may include biological fluid testing (urine, blood),
5 breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its
6 designee. All testing must be pursuant to an observed testing protocol, unless respondent is
7 informed otherwise in writing by the board or its designee. Respondent may be required to
8 participate in testing for the entire probation period and frequency of testing will be determined
9 by the board or its designee.

10 By no later than thirty (30) days after the effective date of this decision, respondent shall
11 have completed all of the following tasks: enrolled and registered with an approved drug and
12 alcohol testing vendor; provided that vendor with any documentation, and any information
13 necessary for payment by respondent; commenced testing protocols, including all required
14 contacts with the testing vendor to determine testing date(s); and begun testing. At all times,
15 respondent shall fully cooperate with the testing vendor, and with the board or its designee, with
16 regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to
17 cooperate timely shall be considered a violation of probation.

18 Respondent may be required to test on any day, including weekends and holidays.
19 Respondent is required to make daily contact with the testing vendor to determine if a test is
20 required, and if a test is required must submit to testing on the same day.

21 Prior to any vacation or other period of absence from the area where the approved testing
22 vendor provides services, respondent shall seek and receive approval from the board or its
23 designee to use an alternate testing vendor to ensure testing can occur. Upon approval,
24 respondent shall enroll and register with the approved alternate drug testing vendor, provide to
25 that alternate vendor any documentation required by the vendor, including any necessary payment
26 by respondent. During the period of absence of the area, respondent shall commence testing
27 protocols with the alternate vendor, including required daily contacts with the testing vendor to
28 determine if testing is required, and required testing. Any failure to timely seek or receive

1 approval from the board or its designee, or to timely enroll and register with, timely commence
2 testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be
3 considered a violation of probation.

4 Upon detection of an illicit drug, controlled substance or dangerous drug, the board or its
5 designee may require respondent to timely provide documentation from a licensed practitioner
6 authorized to prescribe the detected substance demonstrating that the substance was administered
7 or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such
8 documentation shall be provided by respondent within ten (10) days of being requested.

9 Any of the following shall be considered a violation of probation and shall result in
10 respondent being immediately suspended from practice as a Licensed Pharmacist until notified by
11 the board in writing that he may resume practice: failure to timely complete all of the steps
12 required for enrollment/registration with the drug testing vendor, including making arrangements
13 for payment; failure to timely commence drug testing protocols; failure to contact the drug testing
14 vendor as required to determine testing date(s); failure to test as required; failure to timely supply
15 documentation demonstrating that a detected substance was taken pursuant to a legitimate
16 prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or
17 of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the
18 detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In
19 the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a
20 controlled substance or dangerous drug absent documentation that the detected substance was
21 taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee
22 shall inform respondent of the suspension and inform him to immediately leave work, and shall
23 notify respondent's employer(s) and work site monitor(s) of the suspension.

24 During any such suspension, respondent shall not enter any pharmacy area or any portion of
25 the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal drug
26 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
27 any area where dangerous drugs and/or dangerous devices or controlled substances are
28 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,

1 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
2 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
3 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
4 dangerous devices and controlled substances.

5 During any such suspension, respondent shall not engage in any activity that requires the
6 professional judgment of and/or licensure as a Licensed Pharmacist. Respondent shall not direct
7 or control any aspect of the practice of pharmacy, or of the manufacturing, distributing,
8 wholesaling, or retailing of dangerous drugs and/or dangerous devices.

9 Failure to comply with any such suspension shall be considered a violation of probation.
10 Failure to comply with any requirement or deadline stated by this term shall be considered a
11 violation of probation.

12 **18. Abstain from Drugs and Alcohol**

13 Respondent shall completely abstain from the possession or use of alcohol, controlled
14 substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated
15 paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a
16 necessary part of treatment. Respondent shall ensure that he is not in the same physical location
17 as individuals who are using illicit substances even if respondent is not personally ingesting the
18 drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices or controlled
19 substances, or their associated paraphernalia for which a legitimate prescription has not been
20 issued as a necessary part of treatment, or any physical proximity to persons using illicit
21 substances, shall be considered a violation of probation.

22 **19. Prescription Coordination and Monitoring of Prescription Use**

23 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
24 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
25 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
26 history with the use of alcohol, illicit drugs, controlled substances, and/or dangerous drugs, and
27 who will coordinate and monitor any prescriptions for respondent for dangerous drugs and/or
28 dangerous devices, controlled substances or mood-altering drugs. The approved practitioner shall

1 be provided with a copy of the board's Accusation and decision. A record of this notification
2 must be provided to the board or its designee upon request. Respondent shall sign a release
3 authorizing the practitioner to communicate with the board or its designee about respondent's
4 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist
5 shall report to the board on a quarterly basis for the duration of probation regarding respondent's
6 compliance with this condition. If any substances considered addictive have been prescribed, the
7 report shall identify a program for the time limited use of any such substances. The board or its
8 designee may require that the single coordinating physician, nurse practitioner, physician assistant
9 or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.
10 Should respondent, for any reason, cease supervision by the approved practitioner, respondent
11 shall notify the board or its designee immediately and, within thirty (30) days of ceasing
12 supervision, submit the name of a replacement physician, nurse practitioner, physician assistant,
13 or psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to
14 timely submit the selected practitioner or replacement practitioner to the board or its designee for
15 approval, or to ensure the required quarterly reporting thereby, shall be considered a violation of
16 probation.

17 If at any time an approved practitioner determines that respondent is unable to practice
18 safely or independently as a Licensed Pharmacist, the practitioner shall notify the board or its
19 designee immediately by telephone and follow up by written letter within three (3) working days.
20 Upon notification from the board or its designee of this determination, respondent shall be
21 automatically suspended and shall not resume practice as a Licensed Pharmacist until notified by
22 the board or its designee that practice may be resumed.

23 During any suspension, respondent shall not enter any pharmacy area or any portion of the
24 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug
25 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
26 any area where dangerous drugs and/or dangerous devices or controlled substances are
27 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,
28 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall

1 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
2 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
3 dangerous devices and controlled substances. Respondent shall not resume practice until notified
4 by the board.

5 During any suspension, respondent shall not engage in any activity that requires the
6 professional judgment and/or licensure as a Licensed Pharmacist. Respondent shall not direct or
7 control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling,
8 or retailing of dangerous drugs and/or dangerous devices or controlled substances.

9 Failure to comply with any requirement or deadline stated by this term shall be considered a
10 violation of probation.

11 **20. Ethics Course**

12 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
13 in a course in ethics, at respondent's expense, approved in advance by the board or its designee
14 that complies with Title 16 California Code of Regulations section 1773.5. Respondent shall
15 provide proof of enrollment upon request. Within five (5) days of completion, respondent shall
16 submit a copy of the certificate of completion to the board or its designee. Failure to timely enroll
17 in an approved ethics course, to initiate the course during the first year of probation, to
18 successfully complete it before the end of the second year of probation, or to timely submit proof
19 of completion to the board or its designee, shall be considered a violation of probation.

20 **21. Supervised Practice**

21 In the event that Respondent is required to participate in the PRP, as fully described in
22 Term 16 supra, and if the PRP administrator deems it necessary for Respondent to practice under
23 supervision, within thirty (30) days of the effective date of this decision, respondent shall submit
24 to the board or its designee, for prior approval, the name of a Licensed Pharmacist by and not on
25 probation with the board, to serve as respondent's practice supervisor. As part of the
26 documentation submitted, respondent shall cause the proposed practice supervisor to report to the
27 board in writing acknowledging that he or she has read the decision in case number 6235, and is
28 familiar with the terms and conditions imposed thereby, including the level of supervision

1 required by the board or its designee. This level will be determined by the board or its designee,
2 will be communicated to the respondent on or before the effective date of this decision and shall
3 be one of the following:

4 Continuous – At least 75% of a work week

5 Substantial - At least 50% of a work week

6 Partial - At least 25% of a work week

7 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

8 Respondent may practice only under the required level of supervision by an approved
9 practice supervisor. If, for any reason, including change of employment, respondent is no longer
10 supervised at the required level by an approved practice supervisor, within ten (10) days of this
11 change in supervision respondent shall submit to the board or its designee, for prior approval, the
12 name of a Licensed Pharmacist by and not on probation with the board, to serve as respondent's
13 replacement practice supervisor. As part of the documentation submitted, respondent shall cause
14 the proposed replacement practice supervisor to report to the board in writing acknowledging that
15 he or she has read the decision in case number 6235, and is familiar with the terms and conditions
16 imposed thereby, including the level of supervision required.

17 Any of the following shall result in the automatic suspension of practice by a respondent
18 and shall be considered a violation of probation:

19 Failure to nominate an initial practice supervisor, and to have that practice supervisor report
20 to the board in writing acknowledging the decision, terms and conditions, and supervision level,
21 within thirty (30) days;

22 Failure to nominate a replacement practice supervisor, and to have that practice supervisor
23 report to the board in writing acknowledging the decision, terms and conditions, and supervision
24 level, within ten (10) days;

25 Practicing in the absence of an approved practice supervisor beyond the initial or
26 replacement nomination period; or

27 Any failure to adhere to the required level of supervision.

28 Respondent shall not resume practice until notified in writing by the board or its designee.

1 During any suspension, respondent shall not enter any pharmacy area or any portion of the
2 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug
3 retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or
4 any area where dangerous drugs and/or dangerous devices or controlled substances are
5 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,
6 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
7 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
8 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
9 dangerous devices or controlled substances.

10 During any suspension, respondent shall not engage in any activity that requires the
11 professional judgment and/or licensure as a Licensed Pharmacist. Respondent shall not direct or
12 control any aspect of the practice of pharmacy or of the manufacture, distribution, wholesaling, or
13 retailing of dangerous drugs and/or dangerous devices or controlled substances.

14 Failure to comply with any suspension shall be considered a violation of probation.

15 **22. No Ownership or Management of Licensed Premises**

16 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
17 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
18 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
19 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
20 days following the effective date of this decision and shall immediately thereafter provide written
21 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
22 documentation thereof shall be considered a violation of probation.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ivan Petrzelka. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy, Department of Consumer Affairs.

DATED: 06/08/2018


TRANSON THEBAO NGUYEN
Respondent

I have read and fully discussed with Respondent Tran Son Thebao Nguyen the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: June 8, 2018

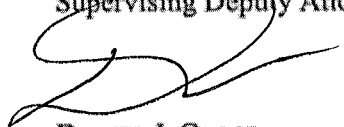

IVAN PETRZELKA
Attorney for Respondent

ENDORSEMENT

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

Dated: 6/8/18

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General


DANIEL J. CROSS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6235

1 XAVIER BECERRA
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
4 State Bar No. 120482
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5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9457
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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

11		
12	In the Matter of the Accusation Against:	Case No. 6235
13	TRANSON THEBAO NGUYEN	A C C U S A T I O N
14	64 Reunion	
15	Irvine, CA 92603	
16	Pharmacist License No. RPH 54495	
17	Respondent.	

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 (Board), Department of Consumer Affairs.
- 22 2. On or about April 15, 2003, the Board issued Pharmacist License Number RPH
23 54495 to Transon Thebao Nguyen (Respondent). The Pharmacist License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on March 31, 2019,
25 unless renewed.

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JURISDICTION

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

4. Section 4300(a) of the Code states "Every license issued may be suspended or revoked."

5. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

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

1 discipline or to determine if the conviction is substantially related to the qualifications,
2 functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority," and
4 "registration."

5 9. Section 4301 of the Code states:

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

9 ...

10 (h) The administering to oneself, of any controlled substance, or the use of any
11 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous
12 or injurious to oneself, to a person holding a license under this chapter, or to any other
13 person or to the public, or to the extent that the use impairs the ability of the person to
14 conduct with safety to the public the practice authorized by the license.

15 ...

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

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, subdivision (b) states:

(b) When considering the suspension or revocation of a facility or a personal
license on the ground that the licensee or the registrant has been convicted of a crime, the
board, in evaluating the rehabilitation of such person and his present eligibility for a
license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

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(3) The time that has elapsed since commission of the act(s) or offense(s).

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

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

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

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, 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.

COSTS

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(July 19, 2017 Criminal Convictions for DUI on January 15, 2017)

13. Respondent has subjected his license to discipline under sections 490 and 4301(1) of the Code in that he was convicted of crimes that are substantially related to the qualifications, duties, and functions of a pharmacist. The circumstances are as follows:

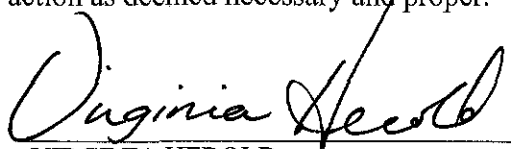
a. On July 19, 2017, in a criminal proceeding entitled *People of the State of California v. Transon Thebao Nguyen, aka Tran Son The Bao Nguyen*, in Orange County Superior Court, case number 17HM03212, Respondent was convicted on his plea of guilty to violating Vehicle Code section 23152(a), driving under the influence of alcohol; and Vehicle Code section 23152(b), driving with a blood alcohol concentration (BAC) of .08 or more, a misdemeanor. Respondent admitted, and the court found true, the special allegation that Respondent's BAC was .20 percent or more within the meaning of Vehicle Code section 23578.

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2. Ordering Transon Thebao Nguyen to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 10/10/17



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

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