

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-1299
Facsimile: (415) 703-5480

6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3243

11 BRIAN D. LEE
12 88 Townsend Street # 323
San Francisco, CA 94107

A C C U S A T I O N

13 Pharmacist License No. RPH 51443

14 Respondent.

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16
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about March 27, 2000, the Board of Pharmacy issued Pharmacist
22 License Number RPH 51443 to Brian D. Lee (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on October 31,
24 2009, unless renewed.

25 JURISDICTION

- 26 3. This Accusation is brought before the Board of Pharmacy (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

1 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any
2 dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

3 9. Section 4060 of the Code provides, in pertinent part, that no person shall
4 possess any controlled substance, except that furnished upon a valid prescription/drug order.

5 10. Health and Safety Code section 11170 provides that no person shall
6 prescribe, administer, or furnish a controlled substance for himself or herself.

7 11. Health and Safety Code section 11357, in pertinent part, makes it unlawful
8 for any person to possess **marijuana** or concentrated cannabis.

9 12. Section 125.3 of the Code provides, in pertinent part, that the Board may
10 request the administrative law judge to direct a licentiate found to have committed a violation of
11 the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

12 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

13 13. Section 4021 of the Code provides that a “controlled substance” is any
14 substance listed in Division 10, Chapter 2 (Section 11053 et seq.) of the Health and Safety Code.

15 14. Section 4022 of the Code states, in pertinent part:

16 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for
17 self-use, except veterinary drugs that are labeled as such, and includes the following:

18 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing
19 without prescription,’ ‘Rx only,’ or words of similar import.

20 ...
21 “(c) Any other drug or device that by federal or state law can be lawfully
22 dispensed only on prescription or furnished pursuant to Section 4006.”

23 15. **Marijuana** is a Schedule I controlled substance as designated by Health
24 and Safety Code section 11054(d)(13), and a dangerous drug as designated by Business and
25 Professions Code section 4022. It is a hallucinogenic drug.

26 FACTUAL BACKGROUND

27 16. Before and until January 22, 2008, Respondent was the Pharmacist in
28 Charge at a Walgreens Pharmacy (PHY 44585) in Mill Valley, CA.

1 SEVENTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 22. Respondent is subject to discipline under section 4301 of the Code in that
4 Respondent, as described in paragraphs 17 to 21 above, engaged in unprofessional conduct.

5 PRAYER

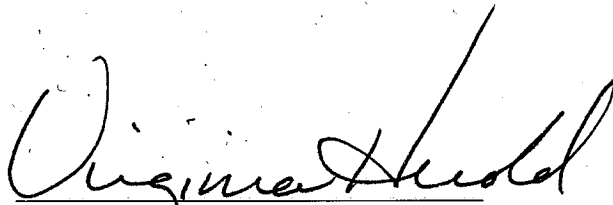
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

8 A. Revoking or suspending Pharmacist License Number RPH 51443, issued
9 to Brian D. Lee (Respondent);

10 B. Ordering Respondent to pay the Board reasonable costs of investigation
11 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

12 C. Taking such other and further action as is deemed necessary and proper.

13
14 DATED: 6/5/09



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17 VIRGINIA HEROLD
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
21 State of California
22 Complainant
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