

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
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,
11 **WALDO R. PASACHE**
12 **1519 44th Avenue**
San Francisco, California 94122

Case No. 3345

13 **Pharmacy Technician**
14 **License No. TCH 79340**

ACCUSATION

15 Respondent.

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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, Department of Consumer Affairs.

22 2. On or about November 9, 2007, the Board of Pharmacy issued Pharmacy Technician
23 License No. TCH 79340 to Waldo R. Pasache (Respondent). The License was in full force and
24 effect at all times relevant to the charges herein and will expire on May 31, 2009, unless renewed.

25 JURISDICTION

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

1 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
2 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 possess any
4 controlled substance, except that furnished upon a valid prescription/drug order.

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

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

9 12. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess
10 any controlled substance in Schedule II, subdivision (d), without a prescription.

11 13. Health and Safety Code section 11550, in pertinent part, makes it unlawful for any
12 person to use or be under the influence of any controlled substance in Schedule II (Health and
13 Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules III-V,
14 except when administered by or under the direction of an authorized licensee.

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

18 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

19 15. Section 4021 of the Code provides that a "controlled substance" is any substance
20 listed in Division 10, Chapter 2 (Section 11053 et seq.) of the Health and Safety Code.

21 16. Section 4022 of the Code states, in pertinent part:

22 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self use,
23 except veterinary drugs that are labeled as such, and includes the following:

24 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without
25 prescription,' 'Rx only,' or words of similar import.

26 ...

27 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
28 prescription or furnished pursuant to Section 4006."

1 17. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety
2 Code section 11054(d)(13), and a dangerous drug as designated by Business and Professions
3 Code section 4022. It is a hallucinogenic drug.

4 18. **Methamphetamine** is a Schedule II controlled substance as designated by Health and
5 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions
6 Code section 4022. It is a stimulant drug.

7 19. **Amphetamine** is a Schedule II controlled substance as designated by Health and
8 Safety Code section 11055(d)(1) and a dangerous drug as designated by Business and Professions
9 Code section 4022. It is a stimulant drug.

10 FACTUAL BACKGROUND

11 20. On or about September 10, 2008, as a condition of his employment as a Pharmacy
12 Technician at a Walgreens Pharmacy (PHY 44028) in San Rafael, California, Respondent was
13 subjected to random drug testing. Respondent tested positive for use of **marijuana** as well as
14 **methamphetamine** and/or **amphetamine**. Respondent admitted to recent possession and use.

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16 FIRST CAUSE FOR DISCIPLINE

17 (Self-Administration of Controlled Substance)

18 21. Respondent is subject to discipline under section 4301(h) of the Code, in that
19 Respondent, as described in paragraph 20, self-administered one or more controlled substances.

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21 SECOND CAUSE FOR DISCIPLINE

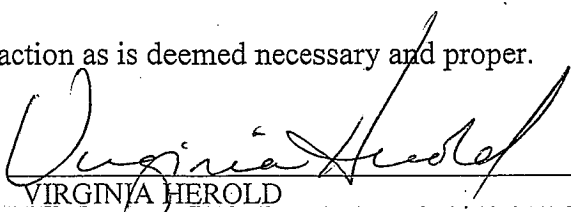
22 (Self-Administration/Use of Controlled Substance)

23 22. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
24 and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as described in
25 paragraph 20, self-administered/used, conspired to self-administer/use, and/or assisted in/abetted
26 self-administration/use of a controlled substance, without prescription.

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

DATED: 6/12/09



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