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

11 In the Matter of the Accusation Against:

Case No. 3567

12 **ANDREW M. LOVELESS**
13 **936 State Street**
Redding, CA 96001

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **80976**

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about February 26, 2008, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 80976 to Andrew M. Loveless (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on June 30, 2011, unless renewed.
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JURISDICTION

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

4. Section 4300 of the Code states in pertinent part:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

...

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

5. Section 4301 of the Code states in pertinent part:

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

...

"(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

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...

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

"(p) Actions or conduct that would have warranted denial of a license.

...

6. Section 4060 of the Code states in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician...."

7. Section 125.3 of the Code states, 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.

CONTROLLED SUBSTANCES

8. **Marijuana** is a hallucinogenic and a Schedule I Controlled Substance pursuant to Health & Safety Code section 11054(D)(13).

9. **Psilocybin** is a hallucinogenic and a schedule I Controlled Substance pursuant to Health & Safety Code section 11054(D)(18).

FACTUAL BACKGROUND

10. On or about February 20, 2009, respondent was stopped for speeding by a Siskiyou County Sheriff's Deputy on I-5. After a consent search of the vehicle, an unknown quantity of marijuana and 7.4 grams of Psilocybin Mushrooms (Magic Mushrooms) were found. Respondent admitted that the mushrooms and marijuana belonged to him.

11. Respondent was subsequently arrested and on March 15, 2009 he was charged with possession of a controlled substance in violation of Health & Safety Code section 11377(a) (a felony), transportation of a controlled substance in violation of Health & Safety Code section 11379(a) (a felony), and possession of marijuana while driving in violation of Vehicle Code

1 Section 23222(b) (a misdemeanor), in the case of *People of the State of California vs. Andrew*
2 *Michael Loveless* Siskiyou County Superior Court case no. YKCRF 09-00387.

3 12. On April 8, 2009 the Siskiyou County Superior Court granted respondent a deferred
4 entry of judgment pursuant to Penal Code section 1000 until October 6, 2010 upon various terms
5 and conditions including the completion of a program in Shasta County and drug testing. If
6 respondent complies with all the conditions imposed by the court, the case will be dismissed on
7 that date.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Unlawful Possession of Controlled Substances)**

10 13. Respondent is subject to disciplinary action under section 4060 in conjunction with
11 Health & Safety Code section 11377(a) for unlawful possession of a non-narcotic controlled
12 substance as set forth in paragraph 10 above.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Violation of Laws Regulating Controlled Substances/Practice of Pharmacy)**

15 14. Respondent is subject to disciplinary action for unprofessional conduct under sections
16 4301(j) and 4301(o) in conjunction with Health & Safety Code sections 11377(a) and 11379(a) as
17 set forth above in paragraphs 10 and 11.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Actions or Conduct Which Would Have Warranted Denial of License)**

20 15. Respondent is subject to disciplinary action for unprofessional conduct under section
21 4301(p) in that unlawful possession of controlled substances as set forth in paragraphs 10 and 13
22 above would have been grounds for the denial of licensure to respondent.

23 **PRAYER**

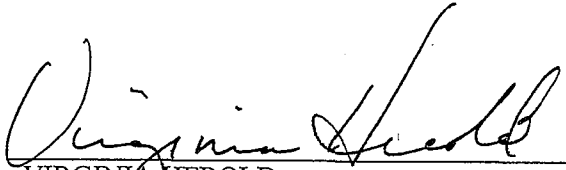
24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Pharmacy issue a decision:

26 1. Revoking or suspending Pharmacy Technician Registration Number TCH 80976,
27 issued to Andrew M. Loveless.

1 2. Ordering Andrew M. Loveless to pay the Board of Pharmacy the reasonable costs of
2 the investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: 4/6/10



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

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13 accusation.rtf

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