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8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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11	In the Matter of the Accusation Against: Case No. 3600		
12	INGRET MARIE BRUNS 1049 Alberdan Circle		
13	Pinole, CA 94564 ACCUSATION		
14	Pharmacy Technician License No. TCH 49154		
15	Respondent.		
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17	Complainant alleges:		
18	Complainant alleges:		
l	PARTIES		
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
21	2. On or about November 7, 2003, the Board of Pharmacy issued Pharmacy Technician		
22	License No. TCH 49154 to Ingret Marie Bruns (Respondent). The Pharmacy Technician License		
23	was in full force and effect at all times relevant to the charges brought herein and will expire on		
24	October 31, 2011, 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.		
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- 4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].
- 5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.
- 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of the Code provides that any other license issued by the Board may be canceled by the Board if not renewed within 60 days after its expiration, and any license canceled in this fashion may not be reissued but will instead require a new application to seek reissuance.

STATUTORY AND REGULATORY PROVISIONS

- 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:
- (h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or alcoholic beverage to the extent or in a manner as to be dangerous or injurious to oneself, to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
- (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.
- (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.

- 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous drug or dangerous device except upon the prescription of an authorized prescriber.
- 9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.
- 10. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.
- 11. Health and Safety Code section 11357, in pertinent part, makes it unlawful for any person to possess marijuana or concentrated cannabis.
- 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 of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

- 13. Section 4021 of the Code provides that a "controlled substance" is any substance listed in Division 10, Chapter 2 (Section 11053 et seq.) of the Health and Safety Code.
 - 14. Section 4022 of the Code states, in pertinent part:
- "Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:
- "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.
- "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."
- 15. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety Code section 11054(d)(13), and a dangerous drug as designated by Business and Professions Code section 4022. It is a hallucinogenic drug.

FACTUAL BACKGROUND

16. For approximately six (6) years through and including August 13, 2009, Respondent was employed as a pharmacy technician at a Walgreens Pharmacy (PHY 38106) in Berkeley, CA.

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1	17. On several occasions in or around July and/or August 2009, Respondent ingested		
2.	(smoked) marijuana. On or about August 13, 2009, Respondent tested positive for marijuana		
3	in a random drug screening administered by her employer, Walgreens Pharmacy.		
4	FIRST CAUSE FOR DISCIPLINE		
5	(Self-Administration of Controlled Substance)		
6	18. Respondent is subject to discipline under section 4301(h) of the Code, in that		
. 7	Respondent, as described in paragraph 17, self-administered a controlled substance.		
8	SECOND CAUSE FOR DISCIPLINE		
. 9.	(Furnishing of Controlled Substance)		
10	19. Respondent is subject to discipline under section(s) 4301(j), (o), and/or 4059 of the		
11	Code in that Respondent, as described in paragraph 17, furnished to himself or another without a		
12	valid prescription, and/or conspired, assisted or abetted furnishing of, a controlled substance.		
13	THIRD CAUSE FOR DISCIPLINE		
14	(Possession of Controlled Substance)		
15	20. Respondent is subject to discipline under section(s) 4301(j), (o), and/or 4060 of the		
16	Code, and/or Health and Safety Code section 11357 in that Respondent, as described in paragra		
17	17, possessed, conspired and/or assisted in or abetted possession of, a controlled substance.		
18	FOURTH CAUSE FOR DISCIPLINE		
19	(Self-Administration/Use of Controlled Substance)		
20	21. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,		
21	and/or Health and Safety Code section 11170, in that Respondent, as described in paragraph 17		
22	self-administered/used, conspired to self-administer/use, and/or assisted in/abetted self-		
23	administration/use, of a controlled substance, without prescription.		
24	FIFTH CAUSE FOR DISCIPLINE		
25	(Unprofessional Conduct)		
26	22. Respondent is subject to discipline under section 4301 of the Code in that		
27	Respondent, as described in paragraphs 17 to 21, engaged in unprofessional conduct.		
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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. Revoking or suspending Pharmacy Technician License No. TCH 49154, issued to Ingret Marie Bruns (Respondent);
- 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
 - 3. Taking such other and further action as is deemed necessary and proper.

DATED: 9/23/10		· · · · · · · · · · · · · · · · · · ·
	DATED:	9/23/10

VIRGINIA HEROLI

Executive Officer Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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