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

12 In the Matter of the Accusation Against:

Case No. 3701

13  
14 **JUAN C. BRICENO**  
253 1/2 South Columbia Avenue  
15 Los Angeles, CA 90026

**A C C U S A T I O N**

16 **Pharmacy Technician**  
17 **Registration No. TCH 68987**

18 Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Virginia K. Herold ("Complainant") brings this Accusation solely in her official  
23 capacity as the Executive Officer of the Board of Pharmacy.

24 2. On or about September 27, 2006, the Board of Pharmacy issued Pharmacy Technician  
25 Registration Number TCH 68987 to Juan C. Briceno ("Respondent"). The Pharmacy Technician  
26 Registration was in full force and effect at all times relevant to the charges brought herein and  
27 will expire on January 31, 2012, unless renewed.  
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1 provision. The board may take action when the time for appeal has elapsed, or the  
2 judgment of conviction has been affirmed on appeal or when an order granting  
3 probation is made suspending the imposition of sentence, irrespective of a  
4 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."

5 7. Section 490 of the Code states:

6 "(a) In addition to any other action that a board is permitted to take against a  
7 licensee, a board may suspend or revoke a license on the ground that the licensee  
8 has been convicted of a crime, if the crime is substantially related to the  
9 qualifications, functions, or duties of the business or profession for which the  
license was issued."

10 "(c) A conviction within the meaning of this section means a plea or verdict  
11 of guilty or a conviction following a plea of nolo contendere. Any action that a  
board is permitted to take following the establishment of a conviction may be  
taken 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 the provisions of  
Section 1203.4 of the Penal Code."

#### 12 REGULATORY PROVISION

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

14 "For the purpose of denial, suspension, or revocation of a personal or facility license  
15 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
16 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
17 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
18 licensee or registrant to perform the functions authorized by his license or registration in a manner  
19 consistent with the public health, safety, or welfare."

#### 20 COST RECOVERY

21 9. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
22 administrative law judge to direct a licentiate found to have committed a violation or violations of  
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
24 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Conviction of a Crime)

3 10. Respondent is subject to disciplinary action under sections 4301(j), 4301(l) and  
4 490(a) of the Code in that Respondent was convicted of the following crime substantially related  
5 to the qualifications, functions, and duties of a pharmacy technician.

6 (a) On or about August 3, 2009, in the Superior Court of the State of California, County  
7 of Los Angeles, Respondent was convicted of the crime of Possession of Marijuana for Sale, in  
8 violation of Health and Safety Code section 11359. The Respondent was placed on formal  
9 probation for a period of three (3) years, ordered to serve two (2) days in jail and register as a  
10 drug offender pursuant to Health and Safety Code section 11590. (People v. Juan Carlos Briceno,  
11 Superior Court of the State of California, County of Los Angeles, Case No. BA352644).

12 (b) The facts and circumstances surrounding the conviction are that on or about February  
13 6, 2009, police officers stopped the Respondent's vehicle for a traffic violation. While speaking  
14 with Respondent, officers noticed the odor of marijuana emitting from the vehicle. When asked  
15 about the marijuana, the Respondent admitted "Yes. I have some weed on the driver's side door."  
16 During a consent search, officers discovered a black zipper pouch containing twenty (20)  
17 individually packaged baggies containing marijuana. Police also seized approximately \$175.00  
18 from the Respondent. The arresting officer indicated the denomination of the currency is  
19 consistent with the sales of narcotics.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Falsely Representing Facts Regarding Conviction of Crime)

22 11. Respondent is subject to disciplinary action under sections 4301(f), 4301(g) of the  
23 Code for unprofessional conduct in that Respondent knowingly made or signed a certificate or  
24 other document that falsely represents the existence or nonexistence of a state of facts.

25 (a) On or about January 26, 2010, the Board received correspondence from the  
26 Respondent including a Pharmacy Technician renewal form and payment. The Respondent's  
27 renewal form indicates "NO" to following the question: "Since you last renewed your license,  
28 have you had any license disciplined by a government agency or other disciplinary body; or, have

1 you been convicted of any crime in any state, the USA and its territories, military court or a  
2 foreign country."

3 **PRAYER**

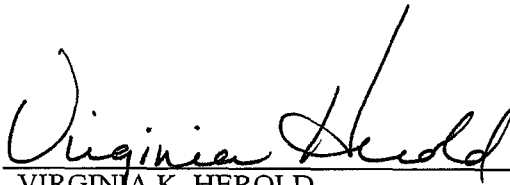
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board of Pharmacy issue a decision:

6 1. Revoking or suspending Pharmacy Technician Registration Number TCH 68987,  
7 issued to Juan C. Briceno;

8 2. Ordering Juan C. Briceno to pay the Board of Pharmacy the reasonable costs of the  
9 investigation and enforcement of this case, pursuant to Business and Professions Code section  
10 125.3;

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

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14 DATED: 11/3/10

  
15 VIRGINIA K. HEROLD  
16 Executive Officer  
17 Board of Pharmacy  
18 State of California  
19 Complainant

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