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9		RE THE	
10	BOARD OF	PHARMACY ONSUMER AFFAIRS	
11		CALIFORNIA	
12	In the Matter of the Accusation Against:	Case No. 5017	
13	BRITTANY NICOLE PLOUFFE	Case 110, 3017	
14	68045 Empalmo Cathedral City, CA 92234	ACCUSATION	·
15	Pharmacy Technician Registration No. TCH	Necoballon	
16	84697		
17	Respondent.		
18	Complainant alleges:		
19	PARTIES		
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as		
21	the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
22	2. On or about August 2, 2008, the Board of Pharmacy issued Pharmacy Technician		
23	Registration Number TCH 84697 to Brittany Nicole Plouffe (Respondent). The Pharmacy		
24	Technician Registration was in full force and effect at all times relevant to the charges brought		
25	herein and will expire on August 31, 2014, unless renewed.		
26	///		
27	<i>III</i>		
28	H_{\perp}		
		1	Accusation

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:
- "(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 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

STATUTORY PROVISIONS

6. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

"Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices."

7. Section 4301 of the Code states:

"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:

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

". . .

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or 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 1 practice authorized by the license. 2 3 "(i) The violation of any of the statutes of this state, or any other state, or of the United 4 States regulating controlled substances and dangerous drugs. 5 0, , , 0 6 Health and Safety Code section 11357, subdivision (c) states: 7 8 "Except as authorized by law, every person who possesses more than 28.5 grams of 9 marijuana, other than concentrated cannabis, shall be punished by imprisonment in a county jail for 10 a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or 11 by both such fine and imprisonment. 12 66 33 13 Health and Safety Code section 11358 states: 14 "Every person who plants, cultivates, harvests, dries, or processes any marijuana or any part 15 thereof, except as otherwise provided by law, shall be punished by imprisonment pursuant to 16 subdivision (h) of Section 1170 of the Penal Code." 17 10. Health and Safety Code section 11359 states: 18 "Every person who possesses for sale any marijuana, except as otherwise provided by law, 19 shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code." 20 Health and Safety Code section 11379.6 states: 21 "(a) Except as otherwise provided by law, every person who manufactures, compounds, 22. converts, produces, derives, processes, or prepares, either directly or indirectly by chemical 23 extraction or independently by means of chemical synthesis, any controlled substance specified in 24 Section 11054, 11055, 11056, 11057, or 11058 shall be punished by imprisonment pursuant to 25 subdivision (h) of Section 1170 of the Penal Code for three, five, or seven years and by a fine not 26 exceeding fifty thousand dollars (\$50,000). 27

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"Marijuana' means all parts of the plant Cannabis sativa L., whether growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include industrial hemp, as defined in Section 11018.5, except where the plant is cultivated or processed for purposes not expressly allowed for by Division 24 (commencing with Section

13. Health & Safety Code section 11006.5 states:

81000) of the Food and Agricultural Code."

Health and Safety Code section 11018 states:

"'Concentrated cannabis' means the separated resin, whether crude or purified, obtained from marijuana."

14. Marijuana is a Schedule I controlled substance as designated by Health and Safety Code section 11054, subdivision (d)(13) and a dangerous drug pursuant to Code section 4022. It is a hallucinogenic drug. Concentrated cannabis is also known as "hash oil" or "honey oil."

COSTS

15. 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.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Act of Moral Turpitude)

- 16. Respondent is subject to disciplinary action under Code sections 4301, subdivision (f) in that Respondent possessed marijuana for sale and dried or processed marijuana, acts of moral turpitude. The circumstances are as follows:
- 17. On June 18, 2013, agents from the Mendocino Major Crimes Task Force traveled past a residential property in Willits and saw two large greenhouses behind it. The greenhouses were covered with translucent plastic and were about 12' wide by 25' long by 12' high. The agents saw

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Accusation

1	22. Respondent then spoke with the agents. She admitted to being at the property since		
2	June 14, 2013. She had been dating Lukas D. for several months. She admitted that they had		
3	been staying in the shed area for about two months. She admitted that she did not have a medical		
4	marijuana card and that she smokes marijuana "maybe once a week and only a couple [of] hits."		
5	The agents then took a ten pound sample of the marijuana and kept five random samples.		
6	Pursuant to Health and Safety Code section 11479, the remaining marijuana that the agents had		
7	found was subsequently destroyed.		
8	SECOND CAUSE FOR DISCIPLINE		
9	(Unprofessional Conduct-Violation of Law Regulating		
10	Controlled Substances and Dangerous Drugs)		
11	23. Respondent is subject to disciplinary action under Code sections 4301, subdivision (j)		
12	in that Respondent violated laws regulating controlled substances and dangerous drugs.		
13	Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs		
14	16-22. The laws are as follows:		
15	24. Code section 4060: possession of a controlled substance without a prescription.		
16	25. Health and Safety Code section 11357, subdivision (c): possession of marijuana.		
17	26. Health and Safety Code section 11358: planting, cultivating, harvesting, drying, or		
18	processing marijuana.		
19	27. Health and Safety Code section 11359: possession for sale of marijuana.		
20	28. Health and Safety Code section 11379.6, subdivision (a): manufacture of		
21	concentrated cannabis through chemical extraction.		
22	THIRD CAUSE FOR DISCIPLINE		
23	(Unprofessional Conduct- Use of a Controlled Substance to an Extent or		
24	in a Manner Dangerous or Injurious to Oneself or to Others)		
25	29. Respondent is subject to disciplinary action under Code 4301, subdivision (h) in		
26	Respondent used the controlled substance or dangerous drug marijuana to an extent or in a manner		
27	dangerous or injurious to herself and the public. Complainant re-alleges and incorporates by		
28	reference the allegations set forth above in paragraphs 16-22.		

DISCIPLINE CONSIDERATIONS

30. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about January 8, 2013, the Board of Pharmacy issued Citation Number CI 2011 51159 and ordered Respondent to pay a fine of \$400.00. The Citation charged Respondent with a violation of Code section 4301, subdivision (h) and subdivision (l). It alleged that in 2012, Respondent was convicted of violating Vehicle Code section 23152, subdivisions (a) and (b), with an enhancement of blood alcohol content of more than 0.15%. That Citation is now final and is incorporated by reference as if fully set forth.

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:

- Revoking or suspending Pharmacy Technician Registration Number TCH 84697, 1. issued to Brittany Nicole Plouffe;
- 2. Ordering Brittany Nicole Plouffe to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section. 125.3; and
 - 3. Taking such other and further action as deemed necessary and proper.

Executive Officer

Board of Pharmacy Department of Consumer Affairs

State of California Complainant

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