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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:

Case No. 5428

11 **KATHERINE MAI TRAM BLANZY**
12 **722 Gregory Drive**
13 **Lapeer, MI 48446**

A C C U S A T I O N

14 **Pharmacist License No. RPH 68317**

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 October 15, 2012, the Board of Pharmacy issued Pharmacist License
23 Number RPH68317 to Katherine Mai Tram Blanzzy (Respondent). The Pharmacist License was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 March 31, 2016 unless renewed.

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

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5 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
6 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
7 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
8 to the extent that the use impairs the ability of the person to conduct with safety to the public the
9 practice authorized by the license.

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

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

17 8. Section 4059 of the Code states in pertinent part that:

18 A person may not furnish any dangerous drug, except upon the prescription of a physician,
19 dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device,
20 except upon the prescription of a physician, dentist, podiatrist, optometrist or veterinarian.

21 9. Section 4060 of the Code provides in pertinent part that:

22 "No person shall possess any controlled substance, except that furnished to a person upon
23 the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian, furnished pursuant
24 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
25 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1."

26 10. Health and Safety Code Section 11170 provides:

27 "No person shall prescribe, administer, or furnish a controlled substance for himself."

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1 11. Section 490 of the Code states in pertinent part that:

2 A board may suspend or revoke a license on the ground that the licensee has been convicted
3 of a crime, if the crime is substantially related to the qualifications, functions, or duties of the
4 business or profession for which the license was issued. A conviction within the meaning of this
5 section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any
6 action that a board is permitted to take following the establishment of a conviction may be taken
7 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal,
8 or when an order granting probation is made suspending the imposition of sentence, irrespective
9 of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

10 12. Section 493 of the Code states in pertinent part that:

11 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
12 the department pursuant to law to deny an application for a license or to suspend or revoke a
13 license or otherwise take disciplinary action against a person who holds a license, upon the
14 ground that the applicant or the licensee has been convicted of a crime substantially related to the
15 qualifications, functions, and duties of the licensee in question, the record of conviction of the
16 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
17 and the board may inquire into the circumstances surrounding the commission of the crime in
18 order to fix the degree of discipline or to determine if the conviction is substantially related to the
19 qualifications, functions, and duties of the licensee in question.

20 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
21 'registration.'"

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

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

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

5 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

6 15. Business and Professions Code section 4021 defines the term "Controlled Substance"
7 as "any substance listed in Chapter 2 (commenting with Section 11053) of Division 10 of the
8 Health and Safety Code."

9 16. Section 4022 of the Code states

10 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
11 humans or animals, and includes the following:

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

14 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
15 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
16 in with the designation of the practitioner licensed to use or order use of the device.

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

19 17. **Marijuana**, is a Scheduled I controlled substance as designated by Health and Safety
20 Code section 11054(d)(20) and is a dangerous drug as defined by Business and Professions Code
21 section 4022, and is used for recreational activities.

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FIRST CAUSE FOR DISCIPLINE

(Unlawful Possession)

18. Respondent is subject to disciplinary action under Business and Professions Code section 4301, subdivisions (j) and (o) and section 4060 in that Respondent violated statutes regulating controlled substances and dangerous drugs. Specifically, on or about October 1, 2014, Respondent, who was then employed at Walgreen's Pharmacy, located at 151 E. Third Avenue in San Mateo, California, tested positive on a random drug test at her place of employment for marijuana.

SECOND CAUSE FOR DISCIPLINE

(Unlawful Self-Administration)

19. Respondent is subject to disciplinary action under Business and Professions Code section 4301, subdivisions (h) and Health and Safety Code section 11170 in that she furnished and/or administered to herself controlled substances. Specifically, on or about October 1, 2014, Respondent, who was then employed at Walgreen's Pharmacy, located at 151 E. Third Avenue in San Mateo, California, tested positive on a random drug test at her place of employment for marijuana.

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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 Pharmacist License Number RPH 68317, issued to Katherine Mai Tram Blanzzy;
2. Ordering Katherine Mai Tram Blanzzy 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/13/15

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

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