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

12 In the Matter of the Accusation Against:

Case No. 5546

13 **ALYSSA NICOLE TRUDELL**
14 **8629 Riverside Drive**
Descanso, CA 91916

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH 79229**

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On January 7, 2008, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 79229 to Alyssa Nicole Trudell (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 July 31, 2017, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
6 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with
7 a disciplinary action during the period within which the license may be renewed, restored,
8 reissued, or reinstated.

9 5. Section 4300, subdivision (a), of the Code provides that every license issued by
10 the Board may be suspended or revoked.

11 6. Section 4300.1 of the Code states:

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

16 **STATUTORY PROVISIONS**

17 7. Section 482 of the Code states:

18 Each board under the provisions of this code shall develop criteria to
19 evaluate the rehabilitation of a person when:

- 20 (a) Considering the denial of a license by the board under Section 480; or
21 (b) Considering suspension or revocation of a license under Section 490.

22 Each board shall take into account all competent evidence of rehabilitation
23 furnished by the applicant or licensee.

24 8. Section 4022 of the Code states

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

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

27 (b) Any device that bears the statement: "Caution: federal law restricts
28 this device to sale by or on the order of a _____," "Rx only," or words of

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1 similar import, the blank to be filled in with the designation of the practitioner
2 licensed to use or order use of the device.

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

5 9. Section 4060 of the Code states:

6 No person shall possess any controlled substance, except that furnished to
7 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
8 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
9 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
10 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
11 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or
12 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
13 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
14 section shall not apply to the possession of any controlled substance by a
15 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
16 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
17 practitioner, or physician assistant, when in stock in containers correctly labeled
18 with the name and address of the supplier or producer.

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

22 10. Section 4301 of the Code states:

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

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28 (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.

. . . .

(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.

. . . .

(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.

. . . .

1 11. Health and Safety Code section 11377, subdivision (a) states:

2 Except as authorized by law and as otherwise provided in subdivision (b)
3 or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
4 Division 2 of the Business and Professions Code, every person who possesses any
5 controlled substance which is (1) classified in Schedule III, IV, or V, and which is
6 not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except
7 paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph
8 (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of
9 subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of
10 Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or
11 veterinarian, licensed to practice in this state, shall be punished by imprisonment
12 in a county jail for a period of not more than one year or pursuant to subdivision
13 (h) of Section 1170 of the Penal Code.

9 REGULATORY PROVISIONS

10 12. California Code of Regulations, title 16, section 1769, states:

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12 (b) When considering the suspension or revocation of a facility or a
13 personal license on the ground that the licensee or the registrant has been
14 convicted of a crime, the board, in evaluating the rehabilitation of such person and
15 his present eligibility for a license will consider the following criteria:

- 16 (1) Nature and severity of the act(s) or offense(s).
17 (2) Total criminal record.
18 (3) The time that has elapsed since commission of the act(s) or
19 offense(s).
20 (4) Whether the licensee has complied with all terms of parole,
21 probation, restitution or any other sanctions lawfully imposed against the licensee.
22 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

26 COST RECOVERY

27 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request
28 the administrative law judge to direct a licentiate found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
3 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
4 may be included in a stipulated settlement.

5 **DRUG**

6 15. Methamphetamine is a Schedule II controlled substance as designated by Health
7 and Safety Code section 11055(d) and is a dangerous drug under Code section 4022.

8 **FACTUAL ALLEGATIONS**

9 16. On June 8, 2014, on Oro Street in El Cajon, California, deputies from the San
10 Diego County Sheriff's Department initiated an enforcement stop after observing a male motorist
11 driving southbound with a small dog on his lap, the dog's paws on the steering wheel, and a two-
12 year old toddler and a six-month old baby in the back seat. The driver yielded. During a
13 consented car search, the deputies found 1.38 grams of marijuana and 0.04 grams of
14 methamphetamine. Both substances tested positive in a field presumptive test. The driver
15 admitted to owning the marijuana, while Respondent, who was seated at the front passenger seat,
16 admitted to owning the methamphetamine.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Commission of Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)**

19 17. Respondent subjected her Pharmacy Technician Registration to disciplinary action
20 under Code section 4301, subdivision (f), in that on June 8, 2014, Respondent unlawfully
21 possessed 0.04 grams of methamphetamine, an act involving moral turpitude, dishonesty, fraud,
22 or deceit.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Violation of Drug Laws)**

25 18. Respondent subjected her Pharmacy Technician Registration to disciplinary
26 action under Code section 4301, subdivision (j) in that Respondent violated Health and Safety
27 Code section 11377, subdivision (a), a statute of the State of California regulating controlled

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1 substances and dangerous drugs, by unlawfully possessing methamphetamine, as detailed in
2 paragraph 16, above, and incorporated herein by this reference.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Violation of Pharmacy Laws)**

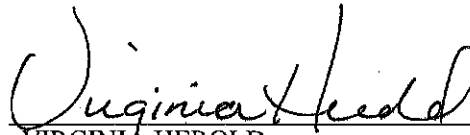
5 19. Respondent subjected her Pharmacy Technician Registration to disciplinary
6 action under Code section 4301, subdivision (o), in that Respondent possessed a controlled
7 substance (methamphetamine) in violation of Code section 4060, as detailed in paragraph 16,
8 above, and incorporated herein by this reference, in violation of pharmacy law.

9 **PRAYER**

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

- 12 1. Revoking or suspending Pharmacy Technician Registration Number TCH 79229,
13 issued to Alyssa Nicole Trudell;
- 14 2. Ordering Alyssa Nicole Trudell to pay the Board of Pharmacy the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions
16 Code section 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.
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21 DATED: 9/5/15


22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

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