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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. 5924

13 **MICHAEL CHRISTOPHER FLORES**  
21254 N. Hwy. 99  
Acampo, CA 95220

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

14 **Pharmacy Technician Registration**  
15 **No. TCH 133963**

16 Respondent.

17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

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

21 2. On or about July 24, 2013, the Board issued Pharmacy Technician Registration  
22 Number TCH 133963 to Michael Christopher Flores ("Respondent"). The Pharmacy Technician  
23 Registration was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on February 28, 2017, unless renewed.

25 **JURISDICTION**

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

1 4. Code section 4300 states, in pertinent part:

2 (a) Every license issued may be suspended or revoked.

3 (b) The board shall discipline the holder of any license issued by the board,  
4 whose default has been entered or whose case has been heard by the board and found  
5 guilty, by any of the following methods:

6 (1) Suspending judgment.

7 (2) Placing him or her upon probation.

8 (3) Suspending his or her right to practice for a period not exceeding one year.

9 (4) Revoking his or her license.

10 (5) Taking any other action in relation to disciplining him or her as the board in  
11 its discretion may deem proper . . .

12 5. Code section 4300.1 states:

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

### 19 STATUTORY AND REGULATORY PROVISIONS

20 6. Code section 4301 states, in pertinent part:

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

25 \*\*\*

26 (h) The administering to oneself, of any controlled substance, or the use of any  
27 dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
28 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 practice authorized by the license.

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(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.

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(o) Violating or attempting to violate, directly or indirectly, or assisting in or

1 abetting the violation of or conspiring to violate any provision or term of this chapter  
2 or of the applicable federal and state laws and regulations governing pharmacy,  
3 including regulations established by the board or by any other state or federal  
4 regulatory agency.

5 7. Code section 4060 states, in pertinent part:

6 A person shall not possess any controlled substance, except that furnished to a  
7 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
8 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
9 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
10 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to  
11 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
12 pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the  
13 possession of any controlled substance by a manufacturer, wholesaler, third-party  
14 logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,  
15 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or  
16 physician assistant, if in stock in containers correctly labeled with the name and  
17 address of the supplier or producer.

18 8. Health and Safety Code section 11550(a) states, in pertinent part:

19 A person shall not use, or be under the influence of any controlled substance  
20 that is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f)  
21 of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision  
22 (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified  
23 in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of  
24 Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when  
25 administered by or under the direction of a person licensed by the state to dispense,  
26 prescribe, or administer controlled substances. It shall be the burden of the defense to  
27 show that it comes within the exception. A person convicted of violating this  
28 subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not  
more than one year in a county jail. The court may also place a person convicted  
under this subdivision on probation for a period not to exceed five years.

9. Health and Safety Code section 11170 states, "No person shall prescribe, administer,  
or furnish a controlled substance for himself."

### COST RECOVERY

10. Code section 125.3 provides, 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, with failure of the licentiate to comply subjecting the license to not being  
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
included in a stipulated settlement.

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1 **DRUG**

2 11. *Cocaine* is a Schedule II controlled substance as designated by Health and Safety  
3 Code section 11055(b)(6).

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Violation of State Laws Regulating Controlled Substances)

6 12. On or about March 15, 2016, at approximately 06:10 hours, officers with the Lodi  
7 Police Department responded to Respondent's report that someone was hiding in the bushes  
8 around his residence. The officers did not see anyone near the reported address upon their arrival.  
9 When Respondent came out to meet the officers, he had excited, rapid speech and walked at a fast  
10 pace. Respondent explained as he walked around outside his apartment that people were hiding in  
11 the bushes. One of the officers shone a light into the bushes, but did not see anyone. Respondent  
12 took the officer to the back patio of his apartment and told him there were "black dudes" looking  
13 into his apartment who were trying to take his patio chairs. The officer observed footprints visible  
14 in the condensation on the lawn made by himself and Respondent only. Respondent complained  
15 that there were several people outside his apartment trying to enter to steal his belongings. Upon  
16 examination, Respondent's pupils appeared dilated, his tongue had a grayish coating, and he  
17 admitted that he had used cocaine. Respondent told the officers that there was a handgun inside  
18 the apartment that belonged to his roommate. Respondent's roommate was contacted and he  
19 informed one of the officers that Respondent knew where his handgun was located. After he had  
20 been arrested and while he was being taken to the patrol car, Respondent commented that there  
21 were people watching them and looking to get into his apartment. Respondent also stated that  
22 there were individuals in three vehicles in a nearby parking lot. Upon closer inspection, the  
23 officer found there no one in the vehicles. A blood sample was drawn and Respondent tested  
24 positive for cocaine.

25 13. On or about March 25, 2016, the complaint in *People v. Michael Christopher Flores*,  
26 Superior Court of California, County of San Joaquin, Case Number LOD-CR-MI-2016-0004441,  
27 was filed, alleging Respondent's violation of Health and Safety Code sections 11550(a)  
28 (use/under influence of a controlled substance). On or about April 5, 2016, Respondent pled

1 guilty to violating Health and Safety Code section 11550(a), a misdemeanor. Pursuant to Penal  
2 Code section 1000, the court granted a deferred entry of judgment for a period of no less than  
3 eighteen months nor longer than three years, during which Respondent is to participate in a court-  
4 approved program, pay all fines and fees, and meet all other terms and conditions set by the court.  
5 Upon his successful completion of the program and satisfaction of all other terms and conditions  
6 set by the court, the court will dismiss the charge.

7 14. Respondent is subject to disciplinary action pursuant to Code section 4301(j), on the  
8 grounds of unprofessional conduct, in that on or about March 15, 2016, Respondent self-  
9 administered cocaine, a controlled substance, in violation of Health and Safety Code  
10 Section 11550, and Code section 4060.

11 **SECOND CAUSE FOR DISCIPLINE**

12 (Use of Controlled Substances in a Dangerous or Injurious Manner)

13 15. Respondent is subject to disciplinary action pursuant to Code section 4301(h), in that  
14 on or about March 15, 2016, Respondent used cocaine in a manner dangerous or injurious to  
15 himself and others, as set forth in paragraph 12, above.

16 **THIRD CAUSE FOR DISCIPLINE**

17 (Violation of the Pharmacy Law)

18 16. Respondent is subject to disciplinary action pursuant to Code section 4301(o), for  
19 unprofessional conduct, in that Respondent violated state law provisions governing pharmacy, as  
20 set forth in paragraphs 12 through 14, above.

21 **PRAYER**

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

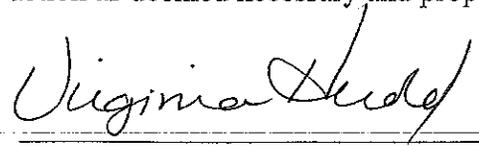
24 1. Revoking or suspending Pharmacy Technician Registration Number TCH 133963,  
25 issued to Michael Christopher Flores;

26 2. Ordering Michael Christopher Flores to pay the Board of Pharmacy the reasonable  
27 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
28 Code section 125.3; and,

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

DATED: 1/10/17



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

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