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7 *Attorneys for Complainant*

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. 5933

13 **SCOTT C. ORTIZ**  
10921 Darling Road  
Ventura, CA 93004

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

14 Pharmacy Technician Registration  
No. TCH 121089

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about June 13, 2012, the Board issued Pharmacy Technician Registration N.  
22 TCH 121089 to Scott C. Ortiz (Respondent). The Pharmacy Technician Registration was in full  
23 force and effect at all times relevant to the charges brought herein and will expire on March 31,  
24 2018, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following laws.  
27 All section references are to the Business and Professions Code unless otherwise indicated.

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4. Section 4300 provides in pertinent part, that every license issued by the Boards is subject to discipline, including suspension or revocation.

5. Section 4300.1 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 4301 states, in pertinent part:

“The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been 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 practice authorized by the license.”

## REGULATORY PROVISIONS

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

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
2 licensee or registrant to perform the functions authorized by his license or registration in a manner  
3 consistent with the public health, safety, or welfare."

4 8. **CONTROLLED SUBSTANCE AND/OR DANGEROUS DRUGS**

5 "Marijuana (Cannabis) ," is a hallucinogenic Schedule I controlled substance as defined in  
6 Health and Safety Code section 11054(d)(13) and a dangerous drug according to section 4022.

7 **BACKGROUND**

8 9. On or about October 24, 2015, while working as a pharmacy technician for Factor  
9 Support Network Pharmacy (FSNP) located in Camarillo, CA, Respondent was selected to take a  
10 random urine drug screening. Respondent tested positive for cannabinoids. Respondent provided  
11 a copy of a recommendation to use marijuana for medicinal and religious purposes issued by Dr.  
12 Alexander to FSNP. Respondent was subsequently terminated from his employment due to  
13 company policies.

14 10. During a Board investigation, Dr. Alexander was contacted and provided with a copy  
15 of the recommendation for him to review and to confirm. Dr. Alexander stated that he reviewed  
16 his patient roster and did not find Respondent's name on it. He also indicted that his  
17 recommendations have a seal and a deep colored watermark, which were both missing from  
18 Respondent's recommendation and that he provides his patients with a wallet size card indicating  
19 the use of medicinal cannabis. Dr. Alexander concluded that he did not prepare the  
20 recommendation and that it was a forged copy.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Use of a Controlled Substance)**

23 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that  
24 on or about October 23, 2014, Respondent worked as a pharmacy technician for FSNP, with a  
25 measureable amount of marijuana in his system. Complainant refers to, and by reference  
26 incorporates, the allegations set forth above in paragraph 10, as though set forth fully.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Acts Involving Dishonesty, Fraud, or Deceit)

3 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), on the  
4 grounds of unprofessional conduct, in that while working as a pharmacy technician at FSNP,  
5 Respondent committed acts involving dishonesty, fraud, or deceit when he presented a forged  
6 authorization to use marijuana to his employer. Complainant refers to, and by reference  
7 incorporates, the allegations set forth above in paragraph 10, as though set forth fully

8 PRAYER

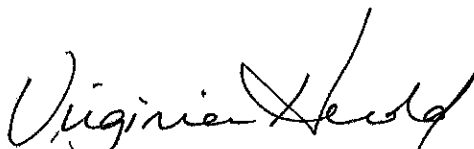
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board of Pharmacy issue a decision:

11 1. Revoking or suspending Pharmacy Technician Registration No. TCH 121089, issued  
12 to Scott C. Ortiz;

13 2. Ordering Scott C. Ortiz to pay the Board of Pharmacy the reasonable costs of the  
14 investigation and enforcement of this case, pursuant to section 125.3; and,

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

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17  
18 DATED: 2/13/17



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

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