

1 XAVIER BECERRA
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 THOMAS L. RINALDI
Supervising Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
6 Facsimile: (213) 897-2804

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. 6028

13 **KRISTIN NICOLE POLANSKI**
5486 E. Los Angeles Ave. #29
14 Simi Valley, CA 93063

A C C U S A T I O N

15 Pharmacy Technician Registration No. TCH
88027

16 Respondent.

17
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 (Board).

22 2. On or about December 19, 2008, the Board issued Pharmacy Technician Registration
23 No. TCH 88027 to Kristin Nicole Polanski (Respondent). The Pharmacy Technician Registration
24 was in full force and effect at all times relevant to the charges brought herein. The registration
25 expired on December 31, 2016, and has not been renewed.

26 ///

27 ///

28 ///

1 7. Section 4300.1 of the Code states:

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

7 8. Section 4301 of the Code states, in pertinent part:

8 "The board shall take action against any holder of a license who is guilty of unprofessional
9 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
10 not limited to, any of the following:

11

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

14

15 "(k) The conviction of more than one misdemeanor or any felony involving the use,
16 consumption, or self administration of any dangerous drug or alcoholic beverage, or any
17 combination of those substances

18

19 "(l) The conviction of a crime substantially related to the qualifications, functions, and
20 duties of a licensee under this chapter. . . .

21

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

26 ///

27 ///

28 ///

1 **REGULATORY PROVISION**

2 9. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

9 **COST RECOVERY**

10 10. Section 125.3 provides that the Board may request the administrative law judge to
11 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
12 sum not to exceed the reasonable costs of the investigation and enforcement of the case, with
13 failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a
14 case settles, recovery of investigation and enforcement costs may be included in a stipulated
15 settlement.

16 **STATE DRUG STATUTES**

17 11. Section 4022 of the Code prohibits the dispensing or furnishing of a dangerous drug
18 or dangerous device, which is any drug or device that is unsafe for self-use in humans or animals,
19 without a prescription or as legally authorized.

20 12. Health and Safety Code section 11007 states that "controlled substance" unless
21 otherwise specified, means a drug, substance, or immediate precursor which is listed in any
22 schedule in Section 11054, 11055, 11056, 11057, or 11058.

23 13. Health and Safety Code section 11377, subdivision (a), states, in part, that:

24 "Except as authorized by law and as otherwise provided in subdivision (b) or Section
25 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the
26 Business and Professions Code, every person who possesses any controlled substance which is . .
27 . (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a
28 physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished

1 by imprisonment in a county jail for a period of not more than one year or in the state prison.”

2 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

3 14. Methamphetamine, a stimulant, is a Schedule II controlled substance pursuant to
4 Health and Safety Code section 11055, subdivision (d)(2), and a dangerous drug pursuant to Code
5 section 4022.

6 15. Methylenedioxymethamphetamine (“MDMA”) is the methylenedioxy derivative of
7 methamphetamine and is commonly known by the street name Ecstasy. MDMA is a Schedule I
8 controlled substance pursuant to Health and Safety Code section 11054, subdivision (d) and a
9 dangerous drug pursuant to Code section 4022.

10 16. Marijuana is a Schedule I controlled substance pursuant to Health and Safety Code
11 section 11054, subdivision (d)(13), and a dangerous drug pursuant to Code section 4022.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Conviction of a Substantially Related Crime)**

14 17. Respondent is subject to disciplinary action under Code sections 4300 and 4301,
15 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
16 grounds of unprofessional conduct, in that Respondent was convicted of crimes, which are
17 substantially related to the qualifications, functions, or duties of a pharmacy technician, as
18 follows:

19 a. On or about November 3, 2016, Respondent, after entering a plea of guilty, was
20 convicted of one misdemeanor count of violating Health and Safety Code section 11364,
21 subdivision (a) [possession of drug paraphernalia], in the criminal proceedings entitled *The*
22 *People of the State of California v. Kristen Nicole Polanski* (Super. Ct. Ventura, 2016, No.
23 20160393560). The court sentenced Respondent to six days jail, and ordered her to pay fines and
24 fees.

25 b. The circumstances surrounding the conviction are that on or about November 1,
26 2016, Ventura Police Department officers responded to a disturbance report and came into
27 contact with Respondent. The officers checked Respondent records and discovered that she had
28 an active warrant. Officers subsequently searched Respondent and discovered a glass smoking

1 pipe in her purse.

2 c. On or about November 3, 2016, after entering a plea of guilty, Respondent was
3 convicted of one misdemeanor count of violating Health and Safety Code section 11550,
4 subdivision (a) [under the influence of a controlled substance], in the criminal proceedings
5 entitled *The People of the State of California v. Kristen Nicole Polanski* (Super. Ct. Ventura
6 County, 2016, No. 2016027557). The court sentenced Respondent to three years probation,
7 ordered her to register in a drug program, attend an AIDS class, and to pay fines and fees.

8 d. The circumstances surrounding the conviction are that on or about July 24, 2016,
9 Ventura County Sheriff Department deputies drove into a Jack-In-The-Box parking lot and
10 observed a vehicle with two passengers "passed out" inside. One of the deputies noticed
11 Respondent sitting on the passenger seat and bent over at the waist with her right arm twisted
12 backwards. The deputy knocked on the driver's side window, and noticed that Respondent
13 dropped a used syringe on the passenger seat. Respondent had visible, fresh injection marks on
14 her arms and hands. When questioned about the needle marks, Respondent admitted that she had
15 "shot up" about a day and half before, and has been a long time heroin user. The deputies also
16 found several used syringes in Respondent's purse and two bags containing approximately 2.4
17 grams of a white, crystalline substance, an unspecified amount of marijuana, and one glass
18 smoking pipe in the vehicle. Respondent subsequently agreed to a urine test for toxicology
19 screening, which tested presumptive positive, non-negative, for methamphetamine, opiates,
20 tetrahydrocannabinol (THC), and methylenedioxy-methamphetamine (MDMA), aka, ecstasy.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Violation of State Laws Regulating Controlled Substances)**

23 18. Respondent is subject to disciplinary action under sections 4300 and 4301,
24 subdivision (j), on the grounds of unprofessional conduct, in that on or about July 24, 2016,
25 Respondent violated Health and Safety Code section 11377, subdivision (a), by illegally
26 possessing controlled substances and dangerous drugs, to wit: Methamphetamine and Marijuana,
27 as set forth in paragraph 17, above.

28 ///

1 THIRD CAUSE FOR DISCIPLINE

2 (Unlawful Use of Controlled Substances)

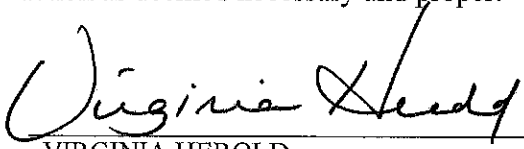
3 19. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (h), on the grounds of unprofessional conduct, in that on or about July 24, 2016,
5 Respondent administered to herself controlled substances, to wit: methamphetamine, opiates,
6 tetrahydrocannabinol (THC), and methylenedioxy-methamphetamine (MDMA), aka, ecstasy, to
7 the extent or in a manner as to be dangerous or injurious to oneself and to the public, as further
8 described in paragraph 17, above.

9 PRAYER

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

- 12 1. Revoking or suspending Pharmacy Technician Registration No. TCH 88027, issued
13 to Kristin Nicole Polanski;
14 2. Ordering Kristin Nicole Polanski to pay the Board the reasonable costs of the
15 investigation and enforcement of this case, pursuant to section 125.3; and,
16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 4/5/17


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

22 DOJ Matter ID: LA2017603129
23 52399461.doc
24
25
26
27
28