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8		RE THE PHARMACY
9	DEPARTMENT OF C	CONSUMER AFFAIRS CALIFORNIA
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11	In the Matter of the Accusation Against:	Case No. 4813
12	YEN K. BUI	
13	9689 Carnation Avenue Fountain Valley, CA 92708	DEFAULT DECISION AND ORDER
14	Pharmacy Technician License No. 55428	
15		[Gov. Code, §11520]
16 17	Respondent.	
18		
19	FINDINGS OF FACT	
20	1. On or about November 4, 2013, Complainant Virginia Herold, in her official capacity	
21	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed	
22	Accusation No. 4813 against Yen K. Bui (Respondent) before the Board of Pharmacy.	
23	(Accusation attached as Exhibit A.)	
24	2. On or about March 13, 2014, Compl	ainant Virginia Herold, in her official capacity as
25	the Executive Officer of the Board of Pharmacy,	Department of Consumer Affairs, filed First
26	Amended Accusation No. 4813 against Yen K. Bui (Respondent) before the Board of Pharmacy.	
27	(Accusation attached as Exhibit B.)	
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ł		DEFAULT DECISION AND ORDER

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- 1	3. On or about March 8, 2004, the Board of Pharmacy (Board) issued Pharmacy		
2	Technician License No. 55428 to Respondent. The Pharmacy Technician License was in full		
3	force and effect at all times relevant to the charges brought in Accusation No. 4813 and expired		
4	on September 30, 2013. This lapse in licensure, however, pursuant to Business and Professions		
5	Code section 118(b), does not deprive the Board of its authority to institute or continue this		
6	disciplinary proceeding.		
7	4. On or about November 21, 2013, Respondent was served by Certified Mail and First		
8	Class Mail copies of Accusation No. 4813, Statement to Respondent, Notice of Defense, Request		
9	for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and		
10	11507.7) at Respondent's address of record which, pursuant to Business and Professions Code		
11	section 4100, is required to be reported and maintained with the Board. Respondent's address of		
12	record was and is:		
13	9689 Carnation Avenue		
14	Fountain Valley, CA 92708.		
15	5. On or about December 5, 2013, the aforementioned documents were returned by the		
16	U.S. Postal Service marked "Attempted Not Known."		
17	6. On or about March 19, 2014, Respondent was served by Certified Mail and First		
18	Class Mail copies of First Amended Accusation No. 4813, Statement to Respondent, Notice of		
19	Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,		
20	11507.6, and 11507.7) at Respondent's address of record.		
21	7. On or about April 4, 2014, the aforementioned documents were returned by the U.S.		
22	Postal Service marked "Attempted Not Known."		
23	8. Service of the Accusation and First Amended Accusation was effective as a matter of		
24	law under the provisions of Government Code section 11505, subdivision (c) and/or Business &		
25	Professions Code section 124.		
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	DEFAULT DECISION AND ORDER		

1	8 Government Code section 11506 states, in pertinent part:		
2	(c) The respondent shall be entitled to a hearing on the merits if the respondent		
3	files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall		
4	constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.		
5	9. Respondent failed to file a Notice of Defense within 15 days after service upon		
6	him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation		
7	No. 4813.		
8	10. California Government Code section 11520 states, in pertinent part:		
9	(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions		
10	or upon other evidence and affidavits may be used as evidence without any notice to respondent.		
11	respondent.		
12	11. Pursuant to its authority under Government Code section 11520, the Board finds		
13	Respondent is in default. The Board will take action without further hearing and, based on the		
14	relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as		
15	taking official notice of all the investigatory reports, exhibits and statements contained therein on		
16	file at the Board's offices regarding the allegations contained in Accusation No. 4813, finds that		
17	the charges and allegations in Accusation No. 4813, are separately and severally, found to be true		
18	and correct by clear and convincing evidence.		
19	12. Taking official notice of its own internal records, pursuant to Business and		
20	Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation		
21	and Enforcement is \$937.50 as of April 29, 2014.		
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1DETERMINATION OF ISSUES21. Based on the foregoing findings of fact, Respondent Yen K. Bui has3Pharmacy Technician License No. 55428 to discipline.42. The agency has jurisdiction to adjudicate this case by default.53. The Board of Pharmacy is authorized to revoke Respondent's Pharm6License based upon the following violations alleged in the Accusation which are7evidence contained in the Default Decision Evidence Packet in this case:8a. Violation of Business and Professions Code sections 490 and 4301, i9that on or about May 30, 2013, in the case entitled <i>The People of the State of Ca</i> 10 <i>Kim Bui, aka Yen Thi Kim Bui</i> , in the Superior Court of California, County of Or11Justice Center, Case No. 12WF3025, Respondent was convicted on her plea of g12Health and Safety Code section 11379(a) (sale or transportation of a controlled sectory MDMA), a felony.14///17///18///19///	acy Technician supported by the subdivision (1), in <i>lifornia v. Yen</i> range, West suilty of violating
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13 ecstacy MDMA), a felony. 14 /// 15 /// 16 /// 17 /// 18 /// 19 ///	ubstance –
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1	ORDER	
2	IT IS SO ORDERED that Pharmacy Technician License No. 55428, heretofore issued to	
3	Respondent Yen K. Bui, is revoked.	
4	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a	
5	written motion requesting that the Decision be vacated and stating the grounds relied on within	
6	seven (7) days after service of the Decision on Respondent. The agency in its discretion may	
7	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.	
8	This Decision shall become effective on July 9, 2014.	
9	It is so ORDERED June 9, 2014.	
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11	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
12	STATE OF CALIFORNIA	
13	By (. Cussi	
14	STAN C. WEISSER Board President	
15	BUI.DOCX70885788.DOC DOJ Matter ID:SD2013705571	
16	Attachment:	
17	Exhibit A: A	
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	5 DEFAULT DECISION AND ORDER	

Exhibit A

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1	KAMALA D. HARRIS	
2	Attorney General of California ALFREDO TERRAZAS	
3	Senior Assistant Attorney General LINDA K. SCHNEIDER	
4	Supervising Deputy Attorney General State Bar No. 101336	
5	110 West "A" Street, Suite 1100 San Diego, CA 92101	
6	P.O. Box 85266 San Diego, CA 92186-5266	
7	Telephone: (619) 645-3037 Facsimile: (619) 645-2061	
8	Attorneys for Complainant	
9	BOARD OF	RE THE PHARMACY
10		CONSUMER AFFAIRS CALIFORNIA
11		1
12	In the Matter of the Accusation Against:	Case No. 4813
13	YEN K. BUI 9689 Carnation Avenue	
14	Fountain Valley, CA 92708	ACCUSATION
15	Pharmacy Technician License No. 55428	
16	Respondent.	
17		
18	Complainant alleges:	
19	PARTIES	
20	1. Virginia Herold (Complainant) brin	gs 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 March 8, 2004, the Board of Pharmacy issued Pharmacy Technician	
23	License Number 55428 to Yen K. Bui (Respondent). The Pharmacy Technician License was	
24	in full force and effect at all times relevant to the charges brought herein and expired on	
25	September 30, 2013.	
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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 unless otherwise indicated.		
5	4. Section 4300, subdivision (a) of the Code states "Every license issued may be		
6	suspended or revoked."		
7	5. Section 4300.1 of the Code states:		
8	The expiration, cancellation, forfeiture, or suspension of a board-issued		
9	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		
10	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.		
11	STATUTORY PROVISIONS		
12	6. Section 482 of the Code states:		
13 14	Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:		
15	(a) Considering the denial of a license by the board under Section 480; or		
16	(b) Considering suspension or revocation of a license under Section 490.		
17	Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.		
18	rendomitation furnished by the applicant of needsee.		
19	7. Section 490 of the Code provides, in pertinent part, that a board may suspend or		
20	revoke a license on the ground that the licensee has been convicted of a crime substantially		
21	related to the qualifications, functions, or duties of the business or profession for which the		
22	license was issued.		
23	8. Section 493 of the Code states:		
24	Notwithstanding any other provision of law, in a proceeding conducted		
25	by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a		
26	person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in guestion, the record of conviction of the axime shall be		
27	duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and		
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the board may inquire into the circumstances surrounding the commission of the 1 crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in 2 auestion. 3 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.' 4 9. Section 4301 of the Code states: 5 The board shall take action against any holder of a license who is guilty 6 of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is 7 not limited to, any of the following: 8 9 (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. 10 11 (1) The conviction of a crime substantially related to the qualifications, 12 functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United 13 States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive 14 evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may 15 inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled 16 substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this 17 chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The 18 board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made 19 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of 20guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. 21 22 (o) Violating or attempting to violate, directly or indirectly, or assisting in 23 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 24 pharmacy, including regulations established by the board or by any other state or federal regulatory agency. 25 111 26 111 27 111 28 3 Accusation

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1	10. Section 4022 of the Code states
2	Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:
3 4	(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
5	(b) Any device that bears the statement: "Caution: federal law restricts
6 7	this device to sale by or on the order of a," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
8	(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.
9	11. Section 4060 of the Code provides in pertinent part, that no person shall possess any
10	controlled substance, except that furnished to a person upon the prescription of a physician,
11	dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.
12	REGULATORY PROVISIONS
13	12. California Code of Regulations, title 16, section 1769, states:
14	• • • •
15	(b) When considering the suspension or revocation of a facility or a personal license on the
16	ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating
17	the rehabilitation of such person and his present eligibility for a license will consider the
18	following criteria:
19	(1) Nature and severity of the act(s) or offense(s).
20	(2) Total criminal record.
21	(3) The time that has elapsed since commission of the act(s) or offense(s).
22	(4) Whether the licensee has complied with all terms of parole, probation, restitution or any
23	other sanctions lawfully imposed against the licensee.
24	(5) Evidence, if any, of rehabilitation submitted by the licensee.
25	13. California Code of Regulations, title 16, section 1770, states:
26	"For the purpose of denial, suspension, or revocation of a personal or facility license
27	pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28	crime or act shall be considered substantially related to the qualifications, functions or duties of a
	4 Accusation

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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	COST RECOVERY
5	14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6	administrative law judge to direct a licentiate found to have committed a violation or violations of
7	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8	enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
9	renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
10	included in a stipulated settlement.
11	DRUGS
12	15. Methylenedioxy amphetamine, commonly known as Ecstasy (MDMA), is a
13	Schedule I controlled substance as designated by Health and Safety Code section 11554(d)(6) and
14	is a dangerous drug pursuant to Business and Professions Code section 4022.
15	FIRST FOR DISCIPLINE
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17	(Unprofessional Conduct - Illegal Possession of Controlled Substances - Ecstasy - on January 31, 2013)
18	16. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
19	(1) of the Code in that she was convicted of a crime that is substantially related to the
20	qualifications, functions and duties of a pharmacy technician. The circumstances are as follows:
21	17. On or about May 30, 2013, in a criminal proceeding entitled <i>The People of the State</i>
22	of California v. Brandon Abille Fulinara, in the Superior Court of California, County of Orange,
23	North Justice Center, Case No. 13NF0710, Respondent was convicted on his plea of guilty of
24	violating Health and Safety Code section 11377(a) (possession of controlled substances – ecstasy
25	(MDMA)), a felony. Pursuant to a plea bargain, counts for violating Health and Safety Code
26	sections 11378 (possession for sale of ecstasy (MDMA)), and 11379(a) (possession for sale of
27	ecstasy (MDMA)), felonies, were dismissed.
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Ì	5 Accusation

18. As a result of the conviction, the Court placed Respondent on three years formal 1 probation, ordered her to serve 365 days in the Orange County Jail, and stayed the jail sentence 2 3 pending successful completion of probation. The Court also ordered Respondent to obey all laws. pay various fines and fees, provide a DNA sample and prints for the State DNA Database, 4 register pursuant to Health and Safety Code section 11590, complete 45 days Cal Trans service as 5 6 directed by the Probation Department, submit person and property to search and seizure, 7 cooperate with probation or any mandatory supervision officer in any plan for psychological, 8 psychiatric, alcohol and/or drug treatment probation, not own, use or possess any type of 9 dangerous or deadly weapon, disclose terms and conditions of probation when asked by any law 10 enforcement or probation officer, and pay costs of supervision.

19. The circumstances that led to the conviction are that on October 11, 2012, 11 Westminster Police Department Officers served a search warrant issued by an Orange County 12 13 Superior Court judge commanding the search of Respondent's vehicle, a maroon Scion XB, and her place of residence in Stanton, California. At approximately 1051 hours, officers conducted a 14 traffic stop of Respondent's vehicle in the area of Beach and Chapman in Westminster, 15 California. Respondent was the passenger in the vehicle that was being driven by a male. 16 Officers conducted a search of the vehicle and Respondent's person and property pursuant to the 17 18 warrant and located the controlled substance ecstasy (MDMA) in various forms, including pills,

capsules and white powder. Respondent and her companion were arrested and transported to theWestminster Police Department for processing.

20. Officers then proceeded to Respondent's residence located on Santa Barbara Avenue 22 in Stanton, California, to conduct a search. Officers used keys obtained from the vehicle to gain 23 entry into the residence, where officers found more contraband including pills packaged in 17 24 separate baggies, consistent with packaging for selling the suspected ecstasy, 33 vials of 25 Ketamine 10 ml. each, more ecstasy pills contained in a clear glass bakeware type pan, and 26 various drug paraphernalia, including a package of 1000 empty clear gel capsules, and \$2,720 in 27 cash.

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1	21. Officers conducted an interview of Respondent prior to booking and Respondent
2	admitted to officers that she sold drugs in large quantities "at the club."
3	SECOND CAUSE FOR DISCIPLINE
4	(Violation of California Statutes Regulating Controlled Substances)
5	22. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
6	(o) of the Code for unprofessional conduct in that on or about October 11, 2012, Respondent
7	violated Health and Safety Code section 11379(a) and Business and Professions Code section
8	4060, as detailed at paragraphs 16-21, above, which are incorporated here by reference.
9	PRAYER
10	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11	and that following the hearing, the Board of Pharmacy issue a decision:
12	1. Revoking or suspending Pharmacy Technician License Number 55428, issued to
13	Yen K. Bui
14	2. Ordering Yen K. Bui to pay the Board of Pharmacy the reasonable costs of the
15	investigation and enforcement of this case, pursuant to Business and Professions Code section
16	125.3;
17	3. Taking such other and further action as deemed necessary and proper.
18	DATED: 11/4/13 (). iging Herde
19	VIRGINIA NEROLD Executive Officer
20	Board of Pharmacy
21	Department of Consumer Affairs State of California
22	Complainant
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Exhibit B

First Amended Accusation

)	1	
1	Kamala D. Harris	
2	Attorney General of California ALFREDO TERRAZAS	
3	Senior Assistant Attorney General LINDA K. SCHNEIDER	
4	Supervising Deputy Attorney General State Bar No. 101336	
5	110 West "A" Street, Suite 1100	
6	San Diego, CA 92101 P.O. Box 85266	
7	San Diego, CA 92186-5266 Telephone: (619) 645-3037	
	Facsimile: (619) 645-2061 Attorneys for Complainant	
8		RE THE
9	DEPARTMENT OF C	PHARMACY CONSUMER AFFAIRS
10	STATE OF C	CALIFORNIA
11	In the Matter of the Accusation Against:	Case No. 4813
12	YEN K. BUI	
13	9689 Carnation Avenue Fountain Valley, CA 92708	FIRST AMENDED ACCUSATION
14	Pharmacy Technician License No. 55428	
15	Respondent.	
16		
17		
18	Complainant alleges:	
19	PARTIES	
20	1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her	
21	official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer	
22	Affairs.	
23	2. On or about March 8, 2004, the Board of Pharmacy issued Pharmacy Technician	
24	License Number 55428 to Yen K. Bui (Respondent). The Pharmacy Technician License was	
25	in full force and effect at all times relevant to the charges brought herein and expired on	
26	September 30, 2013.	
27	111	
28	111	
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1	JURISDICTION
2	3. This First Amended Accusation is brought before the Board of Pharmacy (Board),
3	Department of Consumer Affairs, under the authority of the following laws. All section
4	references are to the Business and Professions Code unless otherwise indicated.
5	4. Section 4300, subdivision (a) of the Code states "Every license issued may be
6	suspended or revoked."
7	5. Section 4300.1 of the Code states:
8	The expiration, cancellation, forfeiture, or suspension of a board-issued
9	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
10	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.
11	STATUTORY PROVISIONS
12	6. Section 482 of the Code states:
13 14	Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:
15	(a) Considering the denial of a license by the board under Section 480; or
16	(b) Considering suspension or revocation of a license under Section 490.
17	Each board shall take into account all competent evidence of
18	rehabilitation furnished by the applicant or licensee.
19	7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
20	revoke a license on the ground that the licensee has been convicted of a crime substantially
21	related to the qualifications, functions, or duties of the business or profession for which the
22	license was issued.
23	8. Section 493 of the Code states:
24	Notwithstanding any other provision of law, in a proceeding conducted
25	by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has
26	person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be
27	conclusive evidence of the fact that the conviction occurred, but only of that fact, and
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the board may inquire into the circumstances surrounding the commission of the 1 crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in 2 question. 3 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.' 4 9. Section 4301 of the Code states: 5 The board shall take action against any holder of a license who is guilty 6 of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is 7 not limited to, any of the following: 8 9 (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. 10 11 (1) The conviction of a crime substantially related to the qualifications. 12 functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United 13 States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive 14 evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may 15 inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled 16 substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this 17 chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The 18 board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made 19 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of 20guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. 21 22 (o) Violating or attempting to violate, directly or indirectly, or assisting in 23 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 24 pharmacy, including regulations established by the board or by any other state or federal regulatory agency. 25 111 26111 27 111 28 3 Accusation

1	10. Section 4022 of the Code states
2	Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:
4	(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
5 6 7	(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
8	(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.
9	11. Section 4060 of the Code provides in pertinent part, that no person shall possess any
10	controlled substance, except that furnished to a person upon the prescription of a physician,
11	dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.
12	REGULATORY PROVISIONS
13	12. California Code of Regulations, title 16, section 1769, states:
14	
15	(b) When considering the suspension or revocation of a facility or a personal license on the
16	ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating
17	the rehabilitation of such person and his present eligibility for a license will consider the
18	following criteria:
19	(1) Nature and severity of the act(s) or offense(s).
20	(2) Total criminal record.
21	(3) The time that has elapsed since commission of the act(s) or offense(s).
22	(4) Whether the licensee has complied with all terms of parole, probation, restitution or any
23	other sanctions lawfully imposed against the licensee.
24	(5) Evidence, if any, of rehabilitation submitted by the licensee.
25	13. California Code of Regulations, title 16, section 1770, states:
26	"For the purpose of denial, suspension, or revocation of a personal or facility license
27	pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28	crime or act shall be considered substantially related to the qualifications, functions or duties of a
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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	COST RECOVERY
5	14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6	administrative law judge to direct a licentiate found to have committed a violation or violations of
7	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8	enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
9	renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
10	included in a stipulated settlement.
11	DRUGS
12	15. Ketamine Is a Schedule III controlled substance pursuant to Health and Safety Code
13	section 11056, subdivision (g), and a dangerous drug pursuant to Business and Professions Code section
14	4022.
15	16. Methylenedioxy amphetamine, commonly known as Ecstasy (MDMA), is a
16	Schedule I controlled substance as designated by Health and Safety Code section 11554(d)(6) and
17	is a dangerous drug pursuant to Business and Professions Code section 4022.
18	FIDET BOD DICCIDI INF
19	FIRST FOR DISCIPLINE
20	(May 30, 2013 Criminal Conviction for Sale or Transportation of a Controlled Substance – Ecstasy – on October 11, 2012)
21	17. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
22	(l) of the Code in that she was convicted of a crime that is substantially related to the
23	qualifications, functions and duties of a pharmacy technician. The circumstances are as follows:
24	18. On or about May 30, 2013, in a criminal proceeding entitled <i>The People of the State</i>
25	of California v. Yen Kim Bui, aka Yen Thi Kim Bui, in the Superior Court of California, County of
26	Orange, West Justice Center, Case No. 12WF3025, Respondent was convicted on her plea of
27	guilty of violating Health and Safety Code section 11379(a) (sale or transportation of a controlled
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substance – ecstasy (MDMA)), a felony. Pursuant to a plea bargain, counts for violating Health and Safety Code sections 11378 (possession for sale of ecstasy (MDMA)), and 11379.2 (possession for sale of ketamine), felonies, were dismissed.

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19. As a result of the conviction, the Court placed Respondent on three years formal 4 probation, ordered her to serve 365 days in the Orange County Jail, and stayed the jail sentence 5 pending successful completion of probation. The Court also ordered Respondent to obey all laws, 6 pay various fines and fees, provide a DNA sample and prints for the State DNA Database, 7 register pursuant to Health and Safety Code section 11590, complete 45 days Cal Trans service as 8 directed by the Probation Department, submit person and property to search and seizure, 9 cooperate with probation or any mandatory supervision officer in any plan for psychological, 10 psychiatric, alcohol and/or drug treatment probation, not own, use or possess any type of 11 dangerous or deadly weapon, disclose terms and conditions of probation when asked by any law 12 enforcement or probation officer, and pay costs of supervision. 13

20. The circumstances that led to the conviction are that on October 11, 2012, 14 Westminster Police Department Officers served a search warrant issued by an Orange County 15 Superior Court judge commanding the search of Respondent's vehicle, a maroon Scion XB, and 16 her place of residence in Stanton, California. At approximately 1051 hours, officers conducted a 17 18 traffic stop of Respondent's vehicle in the area of Beach and Chapman in Westminster, California. Respondent was the passenger in the vehicle that was being driven by a male. 19 Officers conducted a search of the vehicle and Respondent's person and property pursuant to the 20 warrant and located the controlled substance ecstasy (MDMA) in various forms, including pills, 21 capsules and white powder. Respondent and her companion were arrested and transported to the 22 Westminster Police Department for processing. 23

24 21. Officers then proceeded to Respondent's residence located on Santa Barbara Avenue
25 in Stanton, California, to conduct a search. Officers used keys obtained from the vehicle to gain
26 entry into the residence, where officers found more contraband including pills packaged in 17
27 separate baggies, consistent with packaging for selling the suspected ecstasy, 33 vials of
28 Ketamine 10 ml. each, more ecstasy pills contained in a clear glass bakeware type pan, and

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1	various drug paraphernalia, including a package of 1000 empty clear gel capsules, and \$2,720 in
2	cash.
3	22. Officers conducted an interview of Respondent prior to booking and Respondent
4	admitted to officers that she sold drugs in large quantities "at the club."
5	SECOND CAUSE FOR DISCIPLINE
6	(Violation of California Statutes Regulating Controlled Substances)
7	23. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
8	(o) of the Code for unprofessional conduct in that on or about October 11, 2012, Respondent
9	violated Health and Safety Code section 11379(a) and Business and Professions Code section
10	4060, as detailed at paragraphs 17-22, above, which are incorporated here by reference.
11	PRAYER
12	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13	and that following the hearing, the Board of Pharmacy issue a decision:
14	1. Revoking or suspending Pharmacy Technician License Number 55428, issued to
15	Yen K. Bui
16	2. Ordering Yen K. Bui to pay the Board of Pharmacy the reasonable costs of the
17	investigation and enforcement of this case, pursuant to Business and Professions Code section
18	125.3;
19	3. Taking such other and further action as deemed necessary and proper.
20	DATED: 3/13/14 Juninia Herde
21	VIRGINIA HEROLD Executive-Officer
22	Board of Pharmacy Department of Consumer Affairs
23	State of California Complainant
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