

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

BRITTANY NICOLE PLOUFFE

Pharmacy Technician Registration
No. TCH 84967,

Respondent.

Case No. 5017

OAH No. 2014030855

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on July 31, 2015.

It is so ORDERED on July 1, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

AMARYLIS GUTIERREZ
Board President

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BRITTANY NICOLE PLOUFFE

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No. TCH 84967,

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PROPOSED DECISION

Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, heard this matter in San Diego, California on May 7, 2015.

Deputy Attorney General Adrian R. Contreras represented complainant.

Brittany N. Plouffe, respondent, represented herself.

The matter was submitted on May 7, 2015.

FACTUAL FINDINGS

1. On August 2, 2008, the Board of Pharmacy issued to respondent Pharmacy Technician Registration Number TCH 84967. The registration expired on August 31, 2014. The registration was not renewed within sixty days of its expiration; therefore, pursuant to Business and Professions Code section 4402, subdivision (e), the registration was cancelled. Pursuant to Business and Professions Code section 4300.1, the board has continuing jurisdiction over respondent's cancelled license.

2. On October 16, 2014, complainant, Virginia Herold, the Executive Officer of the board, filed First Amended Accusation number 5017 against respondent.

3. Respondent timely filed a Notice of Defense.

4. On June 18, 2013, agents from the Mendocino Major Crimes Task Force drove by a house located in Willits, California. They saw two large greenhouses behind the house. The greenhouses were covered with translucent plastic, and the agents could see marijuana plants in one of the greenhouses. The agents saw a vehicle leave the residence. They followed the vehicle and pulled the driver over. The vehicle was being driven by E.Y. Passengers in the vehicle were respondent, an adult male (L.D.), and two children. E.Y. told the agents that he lived on the property and he was growing 21 marijuana plants there. The agents took the occupants of the vehicle back to the residence; obtained a search warrant for the residence, a shed, and the greenhouses. The agents conducted a search of the property.

5. In the residence the agents found the following:

- a. dried, bud marijuana;
- b. a green military ammunition canister with \$1,800, in fifty dollar denominations;
- c. three large plastic "grow beds;"
- d. 50 growing marijuana plants (each about one-foot high);
- e. 76 growing marijuana plants that were "rooted" (each about 18 inches high);
- f. two small "hydro-cloning beds" that contained 100 non-rooted marijuana clones; and
- g. three large plastic bins containing dried, untrimmed, marijuana buds.

6. In one of the greenhouses the agents found 23 marijuana plants that were growing in pots and plastic buckets.

7. The agents also searched a small shed. Respondent told the agents that she and her boyfriend, L.D., had been sleeping in the shed since she arrived at the property four days earlier, on June 14, 2013. When the agents opened the door to the shed they immediately smelled the strong odor of marijuana and a chemical smell emitting from the shed. Inside the shed the agents found the following:

- a. pieces of wax paper and a paper plate containing "honey oil" chunks;¹
- b. a large metal pipe about three inches long that contained honey oil and smelled like marijuana and chemicals;²
- c. a digital scale;
- d. a case containing over 90 butane canisters;
- e. 12 bags of marijuana;
- f. several glass baking dishes with honey oil residue on them; and

¹ "Honey oil" is concentrated cannabis.

² "Honey oil" is extracted from marijuana "shake" or leaves by placing the shake or leaves in a pipe with a metal cap at one end and using butane and a heat source, usually a griddle, to heat the shake and/or leaves and extract the honey oil.

- g. a mobile phone containing text messages related to marijuana sales.

Respondent's Admissions

8. The agents interviewed respondent, and she admitted the following: she had dated L.D. in the past; L.D. had moved to the Willits residence because he had no job and no other place to stay; the Willits property belonged to L.D.'s friend, E.Y.; respondent was there visiting L.D. and had just arrived four days before, on June 14, 2013; she and L.D. slept in the shed; and, she did not have a medical marijuana card, but she smoked marijuana "maybe once a week and only a couple [of] hits."

Respondent's Testimony

9. Respondent's testimony is summarized as follows: she had no involvement in the marijuana growing or processing operation; she was just visiting L.D. and was told that the operation was a legal medical marijuana growing operation and that E.Y. had the appropriate license to grow marijuana for medical marijuana outlets. She testified that she did not know what "honey oil" was and was not involved in making honey oil; she has never possessed a "marijuana card," and she has not smoked marijuana since the June 18, 2013, incident; she and L.D. now live together in northern California and they have no contact with E.Y.; neither she nor L.D. is involved with marijuana; and she works at a hotel located in Sonora, California.

Expert Testimony

10. Deputy Sheriff Raymond D. Hendry, an expert concerning marijuana cultivation and sales, testified that the Willits property was being used for marijuana growing and processing. There were over four to five pounds of marijuana at the location, as well as a large amount of honey oil. The property was not permitted for legitimate marijuana growing; it was an illegal marijuana growing and processing operation. The matter was referred to the District Attorney for criminal prosecution; however, due to insufficient evidence, respondent was not charged with any criminal activity.

Evaluation

11. Respondent possessed marijuana, a controlled substance, without having a valid prescription for marijuana.

12. Insufficient evidence was presented to support a finding that respondent possessed marijuana for sale or that she was actively involved in growing or processing marijuana or its byproduct, honey oil. Thus, complainant failed to prove that respondent engaged in acts of moral turpitude

Prior Discipline

13. On January 8, 2013, the board issued to respondent citation number C1 2011 51159, based on her 2012 convictions for violating California Vehicle Code section 23152, subdivisions (a) and (b) (driving under the influence of alcohol with a blood alcohol content of more than 0.15%), both misdemeanors. Pursuant to the citation, respondent was ordered to pay a \$400 fine. Respondent did not appeal the citation, and the citation is now final.

Costs

14. The reasonable costs for the investigation and enforcement of this case total \$8,772.50.

15. Respondent lacks the ability to pay any cost recovery.

LEGAL CONCLUSIONS

1. The standard of proof in an administrative disciplinary proceeding seeking to suspend or revoke a professional license is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Guilt must be established to a reasonable certainty, and it cannot be based on surmise or conjecture, suspicion or theoretical conclusions, or uncorroborated hearsay. (*Pettit v. State Board of Education* (1973) 10 Cal.3d 29, 37.) The obligation to establish charges by clear and convincing evidence is a heavy burden. Clear and convincing evidence requires a finding of high probability. The evidence must be so clear as to leave no substantial doubt. It must be sufficiently strong to command the unhesitating assent of every reasonable mind. (*Christian Research Institute v. Alnor* (2007) 148 Cal.App.4th 71, 84.)

2. Cause for discipline does not exist pursuant to Business and Professions Code section 4301, subdivision (f) (commission of an act involving moral turpitude, dishonesty, fraud, deceit or corruption), because, insufficient evidence was presented to establish that respondent possessed marijuana for sale or that she was actively involved in growing and processing marijuana or its byproduct, honey oil.

3. Cause for discipline exists pursuant to Business and Professions Code section 4301, subdivision (j) (violation of any of the statutes . . . regulating controlled substances and dangerous drugs), because, as set forth in Findings 4 through 11, respondent violated Business and Professions Code section 4060 (possession of a controlled substance without a prescription); and Health and Safety Code section 11357, subdivision (c) (illegal possession of marijuana).

4. Cause for discipline exists pursuant to Business and Professions Code section 4301, subdivision (o) (unprofessional conduct -- violating any provision or term of this

chapter or of the applicable federal and state laws and regulations governing pharmacy), based on Findings 4 through 11.

5. Cause for discipline does not exist pursuant to Business and Professions Code section 4301, subdivision (h) (unprofessional conduct – use of a controlled substance or dangerous drug to an extent or in a manner dangerous or injurious to herself or the public), because the evidence failed to establish that respondent used marijuana to an extent or in a manner dangerous or injurious to herself or the public.

Evaluation

6. Given respondent's history of previous discipline for driving under the influence of alcohol (substance abuse), the appropriate level of discipline necessary to protect the public is outright revocation.

Costs

7. *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 held that a regulation imposing costs for investigation and enforcement under California Code of Regulations, title 16, section 317.5 (which is similar to Bus. & Prof. Code, § 125.3) did not violate due process. But, it was incumbent on the State Board of Chiropractic Examiners to exercise discretion to reduce or eliminate cost awards in a manner such that costs imposed under section 317.5 did not “deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing.”

The Supreme Court set forth four factors to consider in deciding whether to reduce or eliminate costs: (1) whether the licensee used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed; (2) whether the licensee had a “subjective” good faith belief in the merits of his position; (3) whether the licensee raised a “colorable challenge” to the proposed discipline; and (4) whether the licensee had the financial ability to make payments.

The reasoning of *Zuckerman* must be applied to Business and Professions Code section 125.3 since the cost recovery regulation in *Zuckerman* contains substantially the same language as that is set forth in Business and Professions Code section 125.3.

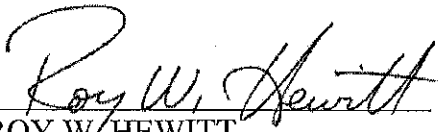
8. Respondent had a good faith belief in the merits of her position, and she prevailed on the most serious causes for discipline – the allegations involving moral turpitude. Respondent does not have the present ability to pay any costs.

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ORDER

1. Pharmacy Technician Registration Number TCH 84967, issued to respondent, Brittany Nicole Plouffe, is revoked.
2. Complainant's cost recovery request is denied.

Dated: June 4, 2015.



ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
Deputy Attorney General
4 State Bar No. 267200
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2634
7 Facsimile: (619) 645-2061
E-mail: Adrian.Contreras@doj.ca.gov
8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:	Case No. 5017
13 BRITTANY NICOLE PLOUFFE	OAH No. 2014030855
14 68045 Empalmo	FIRST AMENDED
14 Cathedral City, CA 92234	ACCUSATION
15 Pharmacy Technician Registration No. TCH	
15 84967	
16 Respondent.	

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 August 2, 2008, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 84967 to Brittany Nicole Plouffe (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein. It expired on August 31, 2014, and has not been renewed.

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1 to the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license.

3 "...

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

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

10 "...."

11 8. Health and Safety Code section 11357, subdivision (c) states:

12 "...

13 "Except as authorized by law, every person who possesses more than 28.5 grams of
14 marijuana, other than concentrated cannabis, shall be punished by imprisonment in a county jail
15 for a period of not more than six months or by a fine of not more than five hundred dollars (\$500),
16 or by both such fine and imprisonment.

17 "...."

18 9. Health and Safety Code section 11358 states:

19 "Every person who plants, cultivates, harvests, dries, or processes any marijuana or any part
20 thereof, except as otherwise provided by law, shall be punished by imprisonment pursuant to
21 subdivision (h) of Section 1170 of the Penal Code."

22 10. Health and Safety Code section 11359 states:

23 "Every person who possesses for sale any marijuana, except as otherwise provided by law,
24 shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal
25 Code."

26 11. Health and Safety Code section 11379.6 states:

27 "(a) Except as otherwise provided by law, every person who manufactures, compounds,
28 converts, produces, derives, processes, or prepares, either directly or indirectly by chemical

1 extraction or independently by means of chemical synthesis, any controlled substance specified in
2 Section 11054, 11055, 11056, 11057, or 11058 shall be punished by imprisonment pursuant to
3 subdivision (h) of Section 1170 of the Penal Code for three, five, or seven years and by a fine not
4 exceeding fifty thousand dollars (\$50,000).

5 "...."

6 **DRUGS**

7 12. Health and Safety Code section 11018 states:

8 "‘Marijuana’ means all parts of the plant Cannabis sativa L., whether growing or not; the
9 seeds of that plant; the resin extracted from any part of the plant; and every compound,
10 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not
11 include industrial hemp, as defined in Section 11018.5, except where the plant is cultivated or
12 processed for purposes not expressly allowed for by Division 24 (commencing with Section
13 81000) of the Food and Agricultural Code."

14 13. Health & Safety Code section 11006.5 states:

15 "‘Concentrated cannabis’ means the separated resin, whether crude or purified, obtained
16 from marijuana."

17 14. Marijuana is a Schedule I controlled substance as designated by Health and Safety
18 Code section 11054, subdivision (d)(13) and a dangerous drug pursuant to Code section 4022. It
19 is a hallucinogenic drug. Concentrated cannabis is also known as "hash oil" or "honey oil."

20 **COSTS**

21 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct-Act of Moral Turpitude)

3 16. Respondent is subject to disciplinary action under Code sections 4301, subdivision (f)

4 in that Respondent possessed marijuana for sale and dried or processed marijuana, acts of moral
5 turpitude. The circumstances are as follows:

6 17. On June 18, 2013, agents from the Mendocino Major Crimes Task Force traveled past
7 a residential property in Willits and saw two large greenhouses behind it. The greenhouses were
8 covered with translucent plastic and were about 12' wide by 25' long by 12' high. The agents
9 saw marijuana plants in one of the greenhouses. The agents followed a vehicle that was parked in
10 front of this residence and pulled the driver over for traffic violations.

11 18. The agents spoke with the driver, Eric Y. Respondent, one other adult man (Lukas
12 D.), and two children were also in the vehicle. Eric told the agents that he lived on the property
13 and was growing 21 marijuana plants on it. The agents took everyone back to the property and
14 got a warrant to search it.

15 19. The agents searched the residence and found the following:

- 16 a. dried bud marijuana inside of a turkey bag;
17 b. a green military ammo canister that had \$1,800.00 in fifty dollar denominations;
18 c. three large plastic grow beds;
19 d. 50 growing marijuana plants about 12" high;
20 e. 76 growing marijuana plans that were rooted and about 18" high;
21 f. two small hydro cloning beds which contained 100 non rooted marijuana clones;
22 g. three large plastic bins that had dried, untrimmed marijuana bud.

23 20. The agents searched one of the greenhouses and found twenty-three growing
24 marijuana plants that were planted in large bag style pots and 10 gallon plastic buckets.

25 21. The agents then searched a nearby shed. Respondent told them that she and Lukas D.
26 stayed in the shed. When the agents opened the shed, they immediately smelled a strong odor of
27 marijuana and chemicals. The officers found inside of Respondent's shed the following:

- 28 a. pieces of wax paper and a paper plate that had honey oil chunks;

1 b. a large metal pipe about 3' in height that had honey oil residue and smelled like
2 chemicals and marijuana;

3 c. a digital scale;

4 d. a case of full butane canisters with one of the boxes removed and sitting on the counter;

5 e. twelve bags of marijuana;

6 f. several glass baking dishes that had honey oil residue;

7 g. a mobile phone that had several text messages regarding the sale of marijuana.

8 22. Respondent then spoke with the agents. She admitted to being at the property since
9 June 14, 2013. She had been dating Lukas D. for several months. She admitted that they had
10 been staying in the shed area for about two months. She admitted that she did not have a medical
11 marijuana card and that she smokes marijuana "maybe once a week and only a couple [of] hits."
12 The agents then took a ten pound sample of the marijuana and kept five random samples.
13 Pursuant to Health and Safety Code section 11479, the remaining marijuana that the agents had
14 found was subsequently destroyed.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct-Violation of Law Regulating**
17 **Controlled Substances and Dangerous Drugs)**

18 23. Respondent is subject to disciplinary action under Code sections 4301, subdivision (j)
19 in that Respondent violated laws regulating controlled substances and dangerous drugs.
20 Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs
21 16-22. The laws are as follows:

22 24. **Code section 4060**: possession of a controlled substance without a prescription.

23 25. **Health and Safety Code section 11357, subdivision (c)**: possession of marijuana.

24 26. **Health and Safety Code section 11358**: planting, cultivating, harvesting, drying, or
25 processing marijuana.

26 27. **Health and Safety Code section 11359**: possession for sale of marijuana.

27 28. **Health and Safety Code section 11379.6, subdivision (a)**: manufacture of
28 concentrated cannabis through chemical extraction.

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THIRD CAUSE FOR DISCIPLINE
**(Unprofessional Conduct- Attempt, Indirect Violation,
Assisting or Abetting, or Conspiracy)**

29. Respondent is subject to disciplinary action under Code 4301, subdivision (o) in that Respondent violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of or conspired to violate any provision or term of the Pharmacy Law or of the applicable federal and state laws and regulations governing pharmacy, including the First and Second Causes for Discipline. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 16-28.

FOURTH CAUSE FOR DISCIPLINE
**(Unprofessional Conduct- Use of a Controlled Substance to an Extent or
in a Manner Dangerous or Injurious to Oneself or to Others)**

30. Respondent is subject to disciplinary action under Code 4301, subdivision (h) in that Respondent used the controlled substance or dangerous drug marijuana to an extent or in a manner dangerous or injurious to herself and the public. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 16-29.

DISCIPLINE CONSIDERATIONS

31. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about January 8, 2013, the Board of Pharmacy issued Citation Number CI 2011 51159 and ordered Respondent to pay a fine of \$400.00. The Citation charged Respondent with a violation of Code section 4301, subdivision (h) and subdivision (l). It alleged that in 2012, Respondent was convicted of violating Vehicle Code section 23152, subdivisions (a) and (b), with an enhancement of blood alcohol content of more than 0.15%. That Citation is now final and is incorporated by reference as if fully set forth.

PRAYER

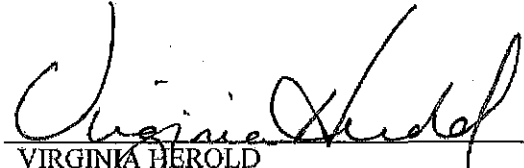
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

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1. Revoking or suspending Pharmacy Technician Registration Number TCH 84967, issued to Brittany Nicole Plouffe;
2. Ordering Brittany Nicole Plouffe to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

10/16/14



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

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1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
Deputy Attorney General
4 State Bar No. 267200
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2634
7 Facsimile: (619) 645-2061
E-mail: Adrian.Contreras@doj.ca.gov
8 *Attorneys for Complainant*

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

11
12 In the Matter of the Accusation Against:
13 **BRITTANY NICOLE PLOUFFE**
68045 Empalmo
14 Cathedral City, CA 92234
15 Pharmacy Technician Registration No. TCH
84697
16 Respondent.

Case No. 5017
ACCUSATION

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about August 2, 2008, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 84697 to Brittany Nicole Plouffe (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 August 31, 2014, 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 unless otherwise indicated.

5 4. Section 4300 of the Code states:

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

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

10 "(1) Suspending judgment.

11 "(2) Placing him or her upon probation.

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

13 "(4) Revoking his or her license.

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

16 "...

17 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
19 shall have all the powers granted therein. The action shall be final, except that the propriety of the
20 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
21 Procedure."

22 5. Section 4300.1 of the Code states:

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

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1 to the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license.

3 "...

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

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7 8. Health and Safety Code section 11357, subdivision (c) states:

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10 marijuana, other than concentrated cannabis, shall be punished by imprisonment in a county jail for
11 a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or
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17 subdivision (h) of Section 1170 of the Penal Code."

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25 Section 11054, 11055, 11056, 11057, or 11058 shall be punished by imprisonment pursuant to
26 subdivision (h) of Section 1170 of the Penal Code for three, five, or seven years and by a fine not
27 exceeding fifty thousand dollars (\$50,000).

28 "..."

1 **DRUGS**

2 12. Health and Safety Code section 11018 states:

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4 seeds of that plant; the resin extracted from any part of the plant; and every compound,
5 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not
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7 processed for purposes not expressly allowed for by Division 24 (commencing with Section
8 81000) of the Food and Agricultural Code."

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11 from marijuana."

12 14. Marijuana is a Schedule I controlled substance as designated by Health and Safety
13 Code section 11054, subdivision (d)(13) and a dangerous drug pursuant to Code section 4022. It
14 is a hallucinogenic drug. Concentrated cannabis is also known as "hash oil" or "honey oil."

15 **COSTS**

16 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct-Act of Moral Turpitude)**

22 16. Respondent is subject to disciplinary action under Code sections 4301, subdivision (f)
23 in that Respondent possessed marijuana for sale and dried or processed marijuana, acts of moral
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1 marijuana plants in one of the greenhouses. The agents followed a vehicle that was parked in front
2 of this residence and pulled the driver over for traffic violations.

3 18. The agents spoke with the driver, Eric Y. Respondent, one other adult man (Lukas
4 D.), and two children were also in the vehicle. Eric told the agents that he lived on the property
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6 got a warrant to search it.

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- 10 c. three large plastic grow beds;
- 11 d. 50 growing marijuana plants about 12" high;
- 12 e. 76 growing marijuana plans that were rooted and about 18" high;
- 13 f. two small hydro cloning beds which contained 100 non rooted marijuana clones;
- 14 g. three large plastic bins that had dried, untrimmed marijuana bud.

15 20. The agents searched one of the greenhouses and found twenty-three growing
16 marijuana plants that were planted in large bag style pots and 10 gallon plastic buckets.

17 21. The agents then searched a nearby shed. Respondent told them that she and Lukas D.
18 stayed in the shed. When the agents opened the shed, they immediately smelled a strong odor of
19 marijuana and chemicals. The officers found inside of Respondent's shed the following:

- 20 a. pieces of wax paper and a paper plate that had honey oil chunks;
- 21 b. a large metal pipe about 3' in height that had honey oil residue and smelled like chemicals
22 and marijuana;
- 23 c. a digital scale;
- 24 d. a case of full butane canisters with one of the boxes removed and sitting on the counter;
- 25 e. twelve bags of marijuana;
- 26 f. several glass baking dishes that had honey oil residue;
- 27 g. a mobile phone that had several text messages regarding the sale of marijuana.

28

1 22. Respondent then spoke with the agents. She admitted to being at the property since
2 June 14, 2013. She had been dating Lukas D. for several months. She admitted that they had
3 been staying in the shed area for about two months. She admitted that she did not have a medical
4 marijuana card and that she smokes marijuana "maybe once a week and only a couple [of] hits."
5 The agents then took a ten pound sample of the marijuana and kept five random samples.
6 Pursuant to Health and Safety Code section 11479, the remaining marijuana that the agents had
7 found was subsequently destroyed.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct-Violation of Law Regulating**
10 **Controlled Substances and Dangerous Drugs)**

11 23. Respondent is subject to disciplinary action under Code sections 4301, subdivision (j)
12 in that Respondent violated laws regulating controlled substances and dangerous drugs.
13 Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs
14 16-22. The laws are as follows:

15 24. **Code section 4060**: possession of a controlled substance without a prescription.

16 25. **Health and Safety Code section 11357, subdivision (c)**: possession of marijuana.

17 26. **Health and Safety Code section 11358**: planting, cultivating, harvesting, drying, or
18 processing marijuana.

19 27. **Health and Safety Code section 11359**: possession for sale of marijuana.

20 28. **Health and Safety Code section 11379.6, subdivision (a)**: manufacture of
21 concentrated cannabis through chemical extraction.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct- Use of a Controlled Substance to an Extent or**
24 **in a Manner Dangerous or Injurious to Oneself or to Others)**

25 29. Respondent is subject to disciplinary action under Code 4301, subdivision (h) in
26 Respondent used the controlled substance or dangerous drug marijuana to an extent or in a manner
27 dangerous or injurious to herself and the public. Complainant re-alleges and incorporates by
28 reference the allegations set forth above in paragraphs 16-22.

1 **DISCIPLINE CONSIDERATIONS**

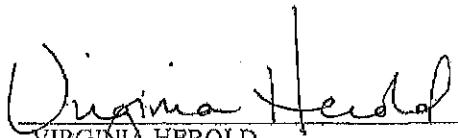
2 30. To determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges that on or about January 8, 2013, the Board of Pharmacy issued Citation
4 Number CI 2011 51159 and ordered Respondent to pay a fine of \$400.00. The Citation charged
5 Respondent with a violation of Code section 4301, subdivision (h) and subdivision (l). It alleged
6 that in 2012, Respondent was convicted of violating Vehicle Code section 23152, subdivisions (a)
7 and (b), with an enhancement of blood alcohol content of more than 0.15%. That Citation is now
8 final and is incorporated by reference as if fully set forth.

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 Registration Number TCH 84697,
13 issued to Brittany Nicole Plouffe;
- 14 2. Ordering Brittany Nicole Plouffe to pay the Board of Pharmacy the reasonable costs of
15 the investigation and enforcement of this case, pursuant to Business and Professions Code section.
16 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.
- 18
19

20 DATED: 2/14/14


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

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