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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. 3203

13 ADRIAN IRIARTE  
1524 21st Street  
Oceano, CA 93445

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

14 Pharmacy Technician Registration  
15 No. TCH 62634

Respondent.

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17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 22, 2005, the Board of Pharmacy (Board) issued  
22 Pharmacy Technician Registration No. TCH 62634 to Adrian Iriarte (Respondent). The  
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
24 brought herein and will expire on July 31, 2009, unless renewed.

25 **JURISDICTION**

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



1 made suspending the imposition of sentence, irrespective of a subsequent order under Section  
2 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a  
3 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
4 or indictment. . . .”

5 **REGULATORY PROVISIONS**

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

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

13 **DANGEROUS DRUGS/CONTROLLED SUBSTANCES**

14 4. "Marijuana" is a Schedule I controlled substance as defined in Health and  
15 Safety Code section 11054, subdivision (d)(2), and is categorized as a dangerous drug pursuant to  
16 Business and Professions Code section 4022.

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

21 **FIRST CAUSE FOR DISCIPLINE**

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

23 6. Respondent is subject to disciplinary action under section 4301,  
24 subdivision (l), of the Code, in conjunction with California Code of Regulation, title 16, section  
25 1770, in that Respondent was convicted of a crime substantially related to the qualifications,  
26 functions or duties of a licensed pharmacy technician, as follows:

27 a. On or about October 31, 2006, Respondent was convicted by the Court on  
28 a plea of nolo contendere for violating Health and Safety Code section 11375(a) (possession of

1 concentrated cannabis), a misdemeanor, in the criminal proceeding entitled *The People of The*  
2 *State of California v. Adrian Iriarte* (Super. Ct. San Luis Obispo County, 2006, No. F388104).  
3 Respondent was placed on 3 years of probation and ordered to 60 hours of volunteer community  
4 work service. The circumstances surrounding the conviction are that on or about May 10, 2006,  
5 the San Luis Obispo Police stopped Respondent for driving his vehicle erratically. During a  
6 vehicle search, a one half pound of marijuana was discovered behind the seat of Respondent's  
7 vehicle. Respondent was placed under arrest. Respondent submitted a letter to the Board stating  
8 he would surrender his pharmacy technician license.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Dishonest Acts)**

11 7. Respondent is subject to disciplinary action under section 4301,  
12 subdivision (f), on the grounds of unprofessional conduct in that on or about May 10, 2006,  
13 Respondent committed an act involving dishonesty. Complainant refers to, and by this reference  
14 incorporates, the allegation set forth above in paragraph 6, subparagraph (a), inclusive, as though  
15 set forth fully.

16 **PRAYER**

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

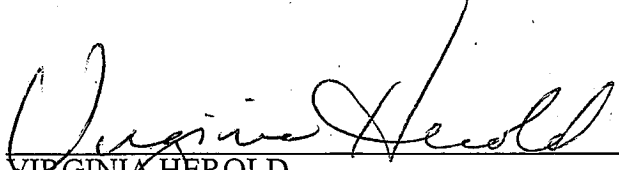
- 19 A. Revoking or suspending Pharmacy Technician Registration Number  
20 TCH 62634, issued to Respondent;
- 21 B. Ordering Respondent to pay the Board the reasonable costs of the  
22 investigation and enforcement of this case, pursuant to Business and Professions Code section  
23 125.3; and,

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

DATED: 11/12/08



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