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

11 In the Matter of the Accusation Against:

Case No. 3247

12 **ANJELICA MARIE GARCIA**
13 **25 Amber Ct.**
Redlands, CA 92374

A C C U S A T I O N

14 **Pharmacy Technician Registration**
15 **No. TCH 74274**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about February 5, 2007, the Board of Pharmacy (Board) issued Pharmacy
22 Technician Registration No. TCH 74274 to Anjelica Marie Garcia (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on July 31, 2010, unless renewed.

25 **JURISDICTION**

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

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STATUTORY PROVISIONS

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

4 5. Section 4301 states:

5 "The board shall take action against any holder of a license who is guilty of unprofessional
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
7 Unprofessional conduct shall include, but is not limited to, any of the following:

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9 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
10 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
11 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
12 to the extent that the use impairs the ability of the person to conduct with safety to the public the
13 practice authorized by the license.

14

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

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

22 6. Section 4060 states, in pertinent part:

23 "No person shall possess any controlled substance, except that furnished
24 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
25 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
26 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
27 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
28 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
shall not apply to the possession of any controlled substance by a manufacturer,
wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or

1 physician assistant, when in stock in containers correctly labeled with the name and
2 address of the supplier or producer.”

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8 7. Health and Safety Code section 11350, subdivision (a), states:

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“(a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.”

COST RECOVERY

9 8.. Section 125.3 states, in pertinent part, that the Board may request the administrative
10 law judge to direct a licentiate found to have committed a violation or violations of the licensing
11 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
12 case.

CONTROLLED SUBSTANCE

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14 9.. “Cocaine,” is a Schedule II controlled substance as defined in Health and Safety Code
15 section 11055(b)(6) and is categorized as a dangerous drug pursuant to section 4022.

FIRST CAUSE FOR DISCIPLINE

(Possession of a Controlled Substance)

18 10. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
19 (o), in that Respondent was found to be in possession of a controlled substance in violation Code
20 section 4060 and Health and Safety Code section 11350, subdivision (a). On or about November
21 25, 2007 during a traffic stop by a police officer from the San Bernardino Sheriff’s Department,
22 Respondent and the driver of her vehicle were contacted by the police officer. While speaking to
23 Respondent and the driver, the police officer detected a strong odor of marijuana emitting from
24 the interior of the vehicle. Respondent admitted to the police officer that she had used cocaine
25 earlier that day. During a search of Respondent’s vehicle, the police officer found a small metal
26 canister in a make-up bag in the back seat that contained a white powdery substance. Respondent
27 acknowledged that it was cocaine and was subsequently arrested for possession of a controlled
28 substance.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Use/Under Influence of a Controlled Substance)**

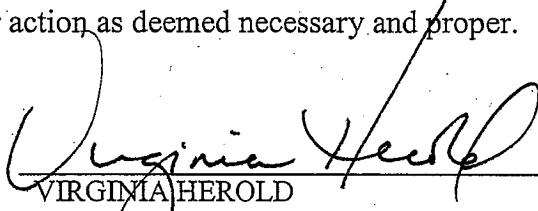
3 11. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and
4 (j), in that on or about November 25, 2007, Respondent, by her own admission, used and/or was
5 under the influence of a controlled substance. Complainant refers to, and by this reference
6 incorporates, the allegations set forth above in paragraph 10, as though set forth in full.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician Registration No. TCH 74274, issued
11 to Respondent.
- 12 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
13 enforcement of this case, pursuant to section 125.3;
- 14 3. Taking such other and further action, as deemed necessary and proper.

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16 DATED: 10/24/09


17 VIRGINIA HEROLD
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
21 State of California
22 Complainant

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