1 2 3 4 5 6	EDMUND G. BROWN JR. Attorney General of California FRANK H. PACOE Supervising Deputy Attorney General JOSHUA A. ROOM Deputy Attorney General State Bar No. 214663 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 Telephone: (415) 703-1299 Facsimile: (415) 703-5480 Attorneys for Complainant	~	
7	BEFOF	E THE	
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
9	STATE OF CALIFORNIA		
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11	In the Matter of the Accusation Against MINDY D. BOYD	Case No. 3346	
12	449 Dufour Street Santa Cruz, CA 95060		
13	Pharmacy Technician	ACCUSATION	
14	License No. TCH 34012		
15	Respondent.		
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17	Complainant alleges:		
18	PARTIES		
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	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
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21	2. On or about July 24, 2000, the Board of Pharmacy issued Pharmacy Technician		
22	License Number TCH 34012 to Mindy D. Boyd (Respondent). The Pharmacy Technician		
23	License was in full force and effect at all times relevant to the charges brought herein and will		
24	expire on October 31, 2009, unless renewed.		
25	JURISD	ICTION	
26	3. This Accusation is brought before the Board of Pharmacy (Board), Department of		
27	Consumer Affairs, under the authority of the following laws. All section references are to the		
. 28	Business and Professions Code (Code) unless otherwise indicated.		
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4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, 6 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a 7 disciplinary action during the period within which the license may be renewed, restored, reissued 8 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not 9 renewed within three years following its expiration may not be renewed, restored, or reinstated 10 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of 11 the Code provides that any other license issued by the Board may be canceled by the Board if not 12 renewed within 60 days after its expiration, and any license canceled in this fashion may not be 13 reissued but will instead require a new application to seek reissuance. 14

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STATUTORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
not be limited to, any of the following:

(h) The administering to oneself, of any controlled substance, or the use of any dangerous
drug or alcoholic beverage to the extent or in a manner as to be dangerous or injurious to oneself,
to any other person or to the public, or to the extent that the use impairs the ability of the person
to conduct with safety to the public the practice authorized by the license.

(j) The violation of any of the statutes of this state, of any other state, or of the UnitedStates regulating controlled substances and dangerous drugs.

(o) Violating or attempting to violate, directly or indirectly, or assisting in 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 pharmacy, including regulations established by
the board or by any other state or federal regulatory agency.

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8. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.

9. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

10. Health and Safety Code section 11364, in pertinent part, makes it unlawful to possess an opium pipe or other paraphernalia used to inject or smoke controlled substances.

11. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess any controlled substance in Schedule II, subdivision (d), without a prescription.

12. Health and Safety Code section 11550, in pertinent part, makes it unlawful for any person to use or be under the influence of any controlled substance in Schedule II (Health and Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules III-V, except when administered by or under the direction of an authorized licensee.

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

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CONTROLLED SUBSTANCES / DANGEROUS DRUGS

14. Section 4021 of the Code states:

"Controlled substance' means any substance listed in Chapter 2 (commencing with Section
11053) of Division 10 of the Health and Safety Code."

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15. Section 4022 of the Code states, in pertinent part:

"Dangerous drug' or 'dangerous device' means any drug or device unsafe for self use, except veterinary drugs that are labeled as such, and includes the following:

23 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without
24 prescription,' 'Rx only,' or words of similar import.

26 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
27 prescription or furnished pursuant to Section 4006.

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1	16. Methamphetamine is a Schedule II controlled substance as designated by Health and	
2	Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions	
3	Code section 4022. It is a stimulant drug.	
4	FACTUAL BACKGROUND	
5	17. On or about March 27, 2007, Respondent was contacted by the Santa Cruz County	
6	Sheriff's Office. The officer(s) concluded from her demeanor and appearance that Respondent	
7	was likely under the influence of a drug. Respondent provided two urine samples, which tested	
8	positive for methamphetamine. Respondent admitted to recent methamphetamine possession	
9	and use. A search of her purse turned up a glass pipe usable for smoking methamphetamine.	
10	Respondent was placed under arrest on suspicion of violating Health and Safety Code section	
11	11550 (Use/Being Under Influence of Controlled Substance) and Health and Safety Code section	
12	11364 (Possession of Opium Pipe/Drug Paraphernalia).	
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14	FIRST CAUSE FOR DISCIPLINE	
15	(Self-Administration of Controlled Substance)	
16	18. Respondent is subject to discipline under section 4301(h) of the Code, in that	
17	Respondent, as described in paragraph 17 above, self-administered methamphetamine, a	
18	controlled substance, on or about March 27, 2007.	
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20	SECOND CAUSE FOR DISCIPLINE	
21	(Possession of Controlled Substance)	Ì
22	19. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section	
23	4060 of the Code, and/or Health and Safety Code section 11377 in that Respondent, as described	
24	in paragraph 17 above, possessed, conspired to possess, and/or assisted in or abetted possession of	·
25	methamphetamine, a controlled substance, without a prescription.	
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1	THIRD CAUSE FOR DISCIPLINE	
2	(Possession of Drug Paraphernalia)	
3	20. Respondent is subject to discipline under section 4301(j) and/or (o), and/or Health	
4	and Safety Code section 11364, in that Respondent, as described in paragraph 17 above,	
5	possessed, conspired to possess, and/or assisted in or abetted possession of drug paraphernalia.	
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7	FOURTH CAUSE FOR DISCIPLINE	
8	(Self-Administration/Use of Controlled Substance)	
9	21. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,	
10	and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as described in	
11	paragraph 17 above, self-administered/used, conspired to self-administer/use, and/or assisted	
12	in/abetted self-administration/use of a controlled substance, without prescription.	
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14	FIFTH CAUSE FOR DISCIPLINE	
15	(Unprofessional Conduct)	
16	22. Respondent is subject to discipline under section 4301 of the Code in that	
17	Respondent, as described in paragraphs 17-21 above, engaged in unprofessional conduct.	
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22	PRAYER	
23	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
24	and that following the hearing, the Board of Pharmacy issue a decision:	
25	1. Revoking or suspending Pharmacy Technician License Number TCH 34012, issued	
26	to Mindy D. Boyd (Respondent);	
27	2. Ordering Respondent to pay the Board reasonable costs of the investigation and	
28	enforcement of this case, pursuant to Business and Professions Code section 125.3;	
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3. Taking such other and further action as is deemed necessary and proper. ' 79 DATED: 7ÍRGINIA HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California *Complainant* SF2009403661 40335572.doc