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8	BEFORE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 3368
12	Derrick Wayne White A C C U S A T I O N
13	446 W. 106th Los Angeles, CA 90003
14	Pharmacy Technician License No.
15	TCH 56617
16	Respondent.
17	Complainant alleges:
18	PARTIES
19	1. Virginia K. 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 February 24, 2005, the Board of Pharmacy (Board) issued Pharmacy
22	Technician License Number TCH 56617 to Derrick Wayne White (Respondent). The Pharmacy
23	Technician License was in full force and effect at all times relevant to the charges brought herein
24	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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	ACCUSATION

4. Section 4300 states, in pertinent part: "Every license issued may be suspended or revoked."

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5. Section 4301 states, in pertinent part:

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

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

6. Health and Safety Code section 11357, subdivision (c), states: "Except as authorized
by law, every person who possesses more than 28.5 grams of marijuana, other than concentrated
cannabis, shall be punished by imprisonment in the county jail for a period of not more than six
months or by a fine of not more than five hundred dollars (\$500), or by both such fine and
imprisonment."

15 7. Health and Safety Code section 11359 states: "Every person who possesses for sale
any marijuana, except as otherwise provided by law, shall be punished by imprisonment in the
state prison.

Health and Safety Code section 11360, subdivision (a), states: "Except as otherwise
 provided by this section or as authorized by law, every person who transports, imports into this
 state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell,
 furnish, administer, or give away, or attempts to import into this state or transport any marijuana
 shall by punished by imprisonment in the state prison for a period of two, three or four years."

CONTROLLED SUBSTANCE

9. Marijuana is a Schedule I controlled substance as designated by Health and Safety
Code section 11054, subdivisions (a) and (d)(13).

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COST RECOVERY PROVISION

27 10. Section 125.3 provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations of

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the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Violation of Statutes Regulating Controlled Substances) 11. Respondent is subject to disciplinary action section 4301, subdivision (j), in conjunction with Health and Safety Code sections 11357, 11359 and 11360, for violating statutes regulating controlled substances. The circumstances are as follows:

a. On or about August 30, 2007, a Los Angeles Police Department detective and officer
from the Southeast Division, Narcotics Enforcement Detail, responded to a residence based on a
citizen complaint that narcotics were being sold there. That residence is Respondent's address of
record with the Board, listed on the caption page of this Accusation. From outside the residence,
the detective observed the following: A woman approached the residence and knocked on the
door. Respondent opened the door. The woman handed Respondent money. Respondent handed
the woman an object, which she received in her right hand.

b. The detective and officer followed the woman as she walked away from the
residence, and approached her. The officer observed in the woman's right hand a clear plastic
baggie which appeared to contain marijuana. The officer recovered the baggie from the woman,
and she was placed under arrest for possession of marijuana.

After Respondent exited the residence, he was placed under arrest for sale of 19 с. marijuana in violation of Health and Safety Code section 11360, subdivision (a). The police 20 searched a vehicle registered to Respondent and the residence. From Respondent's vehicle, the 21 police recovered one plastic baggie containing a green, leafy substance resembling marijuana. 22 From inside the residence, the police recovered four plastic baggies containing a green, leafy 23 substance resembling marijuana. Respondent wrote and signed a statement admitting that the 24 four bags of "weed" in the residence belonged to him. The police formed the opinion that 25 Respondent possessed the marijuana for sale in violation of Health and Safety Code section 26 11359. 27

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d. On or about March 21, 2008, Respondent was charged with one misdemeanor count
of possession of more than 28.5 grams of marijuana in violation of Health and Safety Code
section 11357, subdivision (c), in the criminal proceeding entitled The People of the State of
California v. Derrick Wayne White (Super. Ct., L.A. County, 2008, No. 8CA05792). Pursuant to
a motion by the People, Respondent paid a court fine of \$250, and the court dismissed the case
pursuant to Penal Code section 1385.

PRAYER

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

1. Revoking or suspending Pharmacy Technician License Number TCH 56617, issued 10 to Derrick Wayne White. 11

2. Ordering Derrick Wayne White to pay the Board the reasonable costs of the 12 investigation and enforcement of this case, pursuant to Business and Professions Code section 13 125.3; and 14

> Taking such other and further action as deemed necessary and proper. 3.

16 10/5/09 17 DATED: 18

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VIRGI HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs

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