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8		RE THE	
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF C	CALIFORNIA	
11			
12	In the Matter of the Accusation Against:	Case No. 3701	
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14	JUAN C. BRICENO	ACCUSATION	
15	253 1/2 South Columbia Avenue Los Angeles, CA 90026		
16	Pharmacy Technician Registration No. TCH 68987		
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18	Respondent.		
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20	Complainant alleges:		
21	PAR	TIES	
22	1. Virginia K. Herold ("Complainant")	brings this Accusation solely in her official	
23	capacity as the Executive Officer of the Board of	f Pharmacy.	
24	2. On or about September 27, 2006, the	Board of Pharmacy issued Pharmacy Technician	
25	Registration Number TCH 68987 to Juan C. Brid	ceno ("Respondent"). The Pharmacy Technician	
26	Registration was in full force and effect at all times relevant to the charges brought herein and		
27	will expire on January 31, 2012, unless renewed.		
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1	JURISDICTION	
2	3. This Accusation is brought before the Board of Pharmacy, under the authority of the	
3	following laws. All section references are to the Business and Professions Code unless otherwise	
4	indicated.	
5	4. Section 4300 of the Code permits the Board to take disciplinary action to suspend or	
6	revoke a license issued by the Board.	
7	5. Section 118(b) of the Code states:	
8	"The suspension, expiration, or forfeiture by operation of law of a license issued by a board	
9	in the department, or its suspension, forfeiture, or cancellation by order of the board or by order	
10	of a court of law, or its surrender without the written consent of the board, shall not, during any	
11	period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its	
12	authority to institute or continue a disciplinary proceeding against the licensee upon any ground	
13	provided by law or to enter an order suspending or revoking the license or otherwise taking	
14	disciplinary action against the licensee on any such ground."	
15	STATUTORY PROVISIONS	
16	6. Section 4301 of the Code states:	
17	"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	
18	is not limited to, any of the following:"	
19	"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a	
20	licensee or otherwise, and whether the act is a felony or misdemeanor or not." "(g) Knowingly making or signing any certificate or other document that	
21	falsely represents the existence or nonexistence of a state of facts." "(j) The violation of any of the statutes of this state, or any other state, or of	
22	the United States regulating controlled substances and dangerous drugs." (1) The conviction of a crime substantially related to the qualifications,	
23	functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United	
24	States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive	
25	evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The	
26	board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not	
27	involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a	
28	licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this	
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1 2	provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a	
3	subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside	
4	the verdict of guilty, or dismissing the accusation, information, or indictment."	
5	7. Section 490 of the Code states:	
6	"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the	
7	qualifications, functions, or duties of the business or profession for which the license was issued."	
8	"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a	
9	board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been	
10 11	affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."	
12	<b>REGULATORY PROVISION</b>	
13	8. California Code of Regulations, title 16, section 1770, states:	
14	"For the purpose of denial, suspension, or revocation of a personal or facility license	
15	pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a	
16	crime or act shall be considered substantially related to the qualifications, functions or duties of a	
17	licensee or registrant if to a substantial degree it evidences present or potential unfitness of a	
18	licensee or registrant to perform the functions authorized by his license or registration in a manner	
19	consistent with the public health, safety, or welfare."	
20	COST RECOVERY	
21	9. 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	(Conviction of a Crime)
3	10. Respondent is subject to disciplinary action under sections 4301(j), 4301(l) and
4	490(a) of the Code in that Respondent was convicted of the following crime substantially related
5	to the qualifications, functions, and duties of a pharmacy technician.
6	(a) On or about August 3, 2009, in the Superior Court of the State of California, County
7	of Los Angeles, Respondent was convicted of the crime of Possession of Marijuana for Sale, in
8	violation of Health and Safety Code section 11359. The Respondent was placed on formal
9	probation for a period of three (3) years, ordered to serve two (2) days in jail and register as a
10	drug offender pursuant to Health and Safety Code section 11590. (People v. Juan Carlos Briceno,
11	Superior Court of the State of California, County of Los Angeles, Case No. BA352644).
12	(b) The facts and circumstances surrounding the conviction are that on or about February
13	6, 2009, police officers stopped the Respondent's vehicle for a traffic violation. While speaking
14	with Respondent, officers noticed the odor of marijuana emitting from the vehicle. When asked
15	about the marijuana, the Respondent admitted "Yes. I have some weed on the driver's side door."
16	During a consent search, officers discovered a black zipper pouch containing twenty (20)
17	individually packaged baggies containing marijuana. Police also seized approximately \$175.00
18	from the Respondent. The arresting officer indicated the denomination of the currency is
19	consistent with the sales of narcotics.
20	SECOND CAUSE FOR DISCIPLINE
21	(Falsely Representing Facts Regarding Conviction of Crime)
22	11. Respondent is subject to disciplinary action under sections 4301(f), 4301(g) of the
23	Code for unprofessional conduct in that Respondent knowingly made or signed a certificate or
24	other document that falsely represents the existence or nonexistence of a state of facts.
25	(a) On or about January 26, 2010, the Board received correspondence from the
26	Respondent including a Pharmacy Technician renewal form and payment. The Respondent's
27	renewal form indicates "NO" to following the question: "Since you last renewed your license,
28	have you had any license disciplined by a government agency or other disciplinary body; or, have
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1	you been convicted of any crime in any state, the USA and its territories, military court or a	
2	foreign country."	
3	PRAYER	
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
5	and that following the hearing, the Board of Pharmacy issue a decision:	
6	1. Revoking or suspending Pharmacy Technician Registration Number TCH 68987,	
7	issued to Juan C. Briceno;	
8	2. Ordering Juan C. Briceno to pay the Board of Pharmacy the reasonable costs of the	
9	investigation and enforcement of this case, pursuant to Business and Professions Code section	
10	125.3;	
11	3. Taking such other and further action as deemed necessary and proper.	
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14	DATED: 11/3/10 liginia Acid	
15	VIRGINIA K. HEROLD Executive Officer	
16	Board of Pharmacy State of California	
17	Complainant	
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