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

11 In the Matter of the Accusation Against:

Case No. 4071

12 **MONICA DEE ROBLES**  
13 **P.O. Box 1266**  
14 **Placentia, CA 92871**

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

15 **Pharmacy Technician Registration No. TCH 100652**

16 Respondent.e

17 Complainant alleges:

18 **PARTIES**

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

21 2.e On or about June 8, 2010, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 100652 to Monica Dee Robles (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 October 31, 2013, unless renewed.

25 **JURISDICTION**

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

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4. Section 4300 of the Code states:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

". . . .

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

5. Section 118 of the Code states:

"(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground

1 provided by law or to enter an order suspending or revoking the license or otherwise taking  
2 disciplinary action against the licensee on any such ground.

3 "(c) As used in this section, 'board' includes an individual who is authorized by any  
4 provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,'  
5 'registration,' and 'permit.'"

### 6 STATUTORY AUTHORITIES

7 6. Section 482 of the Code states:

8 "Each board under the provisions of this code shall develop criteria to evaluate the  
9 rehabilitation of a person when:

10 "....

11 "(b) Considering suspension or revocation of a license under Section 490.

12 "Each board shall take into account all competent evidence of rehabilitation furnished  
13 by the applicant or licensee."

14 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
15 revoke a license on the ground that the licensee has been convicted of a crime substantially  
16 related to the qualifications, functions, or duties of the business or profession for which the  
17 license was issued.

18 8. Section 493 of the Code states:

19 "Notwithstanding any other provision of law, in a proceeding conducted by a board  
20 within the department pursuant to law to deny an application for a license or to suspend or  
21 revoke a license or otherwise take disciplinary action against a person who holds a license,  
22 upon the ground that the applicant or the licensee has been convicted of a crime  
23 substantially related to the qualifications, functions, and duties of the licensee in question,  
24 the record of conviction of the crime shall be conclusive evidence of the fact that the  
25 conviction occurred, but only of that fact, and the board may inquire into the circumstances  
26 surrounding the commission of the crime in order to fix the degree of discipline or to  
27 determine if the conviction is substantially related to the qualifications, functions, and  
28 duties of the licensee in question.

1 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
2 'registration.'"

3 9. Section 4301 of the Code states:

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

7 ". . . .

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

13 ". . . .

14 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
15 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
16 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
17 substances or of a violation of the statutes of this state regulating controlled substances or  
18 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
19 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
20 The board may inquire into the circumstances surrounding the commission of the crime, in order  
21 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
22 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
23 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
24 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
25 of this provision. The board may take action when the time for appeal has elapsed, or the  
26 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
27 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
28 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
2 indictment.

3 ". . . ."

#### 4 **REGULATIONS**

5 10. California Code of Regulations, title 16, section 1769, states in relevant part:

6 ". . . ."

7 "(b) When considering the suspension or revocation of a facility or a personal license on the  
8 ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating  
9 the rehabilitation of such person and his present eligibility for a license will consider the  
10 following criteria:

11 "(1) Nature and severity of the act(s) or offense(s).

12 "(2) Total criminal record.

13 "(3) The time that has elapsed since commission of the act(s) or offense(s).

14 "(4) Whether the licensee has complied with all terms of parole, probation, restitution or  
15 any other sanctions lawfully imposed against the licensee.

16 "(5) Evidence, if any, of rehabilitation submitted by the licensee."

17 11. California Code of Regulations, title 16, section 1770, states:

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

#### 24 **COST RECOVERY**

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

1 **DRUGS**

2 13. Marijuana is a Schedule I controlled substance as designated by Health and Safety  
3 Code section 11054, subdivision (d)(13), and is a dangerous drug pursuant to Business &  
4 Professions Code section 4022.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(December 14, 2010 Conviction for DUI on August 31, 2010)**

7 14. Respondent is subject to disciplinary action under section 4301, subdivision (l), and  
8 490, for unprofessional conduct in that Respondent was convicted of a crime substantially related  
9 to the qualifications, functions, and duties of a pharmacy technician. The circumstances are as  
10 follows:

11 15. On December 14, 2010, in a criminal case entitled *The People of the State of*  
12 *California v. Monica Dee Robles*, Riverside County Superior Court case number RIF10004575,  
13 Respondent was convicted by her plea of guilty to violating Health and Safety Code section  
14 11360, subdivision (a), driving under the influence, a misdemeanor.

15 16. The facts that led to this conviction are that on or about August 31, 2010, at almost  
16 midnight, California Highway Patrol officers were on routine patrol on SR-91 eastbound, west of  
17 Serfas Club Drive in the number 4 lane at approximately 65 miles per hour, when they noticed  
18 Respondent's vehicle pass them at a high rate of speed in the number 1 lane. The officer driving  
19 accelerated the patrol vehicle, and moved into the number 1 lane behind Respondent. The  
20 officers paced Respondent's vehicle from east of Serfas Club Drive to just west of Lincoln  
21 Avenue. During this pace, Respondent maintained a speed of 109 miles per hour. The officers  
22 then pulled over Respondent. When speaking with Respondent, one officer immediately detected  
23 the strong and distinct smell of an alcoholic beverage emitting from within Respondent's vehicle.  
24 This officer also noticed a brown leather bag sitting on the right front passenger side floorboard.  
25 The leather bag was partially open and he could see two clear glass jars inside the bag. He  
26 noticed that the glass jars were full of a green leafy substance that resembled marijuana. The  
27 officer asked Respondent, "What's inside the bag?" as he illuminated it with his handheld  
28 flashlight. Respondent answered, "Marijuana, but I have my medical marijuana card!" He asked

1 Respondent how much she had to drink that evening. She related that she consumed one beer  
2 prior to driving. He asked Respondent to step out of the vehicle. As Respondent did so, the  
3 officer noticed that her gait was unsteady, and her eyes were red and watery. He asked  
4 Respondent a series of investigative questions. As they talked about an arms length away, the  
5 officer noticed the distinct smell of an alcoholic beverage emitting from her breath and person.  
6 He also noticed that her speech was slurred. The officer had Respondent perform a series of pre-  
7 explained and pre-demonstrated Field Sobriety Tests, during which he observed obvious signs of  
8 impairment. After the Field Sobriety Tests, the officer inspected the brown leather bag located on  
9 the passenger floorboard and discovered that the bag contained glass jars filled with 144.8 grams  
10 (over 5 ounces) of marijuana. Respondent admitted that the marijuana was hers. Respondent  
11 stated that it was medical marijuana for pain relief.

12 17. Based on her conviction, Respondent was sentenced to summary probation for a  
13 period of 36 months, under the following terms and conditions: (1) obey all laws, ordinances,  
14 and court orders; (2) be committed to the custody of the Riverside County Sheriff for 10 days to  
15 be served on consecutive weekends; (3) pay a fine and penalty assessment of \$1,582.00; (4) to not  
16 drive with any measurable amount of alcohol or drugs in your blood, or within 6 hours of  
17 consuming any alcohol or drugs; (5) if arrested for driving under the influence of intoxicants,  
18 submit to any blood, breath, or urine test as requested by the arresting officer; (6) to not drive  
19 unless properly licensed nor without insurance or valid registration; (7) attend and satisfactorily  
20 complete the first offender DUI program for 4 months; and (8) perform 72 hours community  
21 service.

## 22 SECOND CAUSE FOR DISCIPLINE

### 23 (Unprofessional Conduct – Self-Administration of Controlled Substance/Alcohol)

24 18. Respondent is subject to disciplinary action under section 4301, subdivision (h), for  
25 unprofessional conduct in that Respondent used a controlled substance, marijuana and/or alcohol  
26 to the extent or in a manner as to be dangerous or injurious to herself or to the public as set forth  
27 in paragraphs 14 through 17 above, which are incorporated here by this reference.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Self-Administration of Controlled Substance/Alcohol)**

3 19. Respondent is subject to disciplinary action under section 4301, subdivision (h), for  
4 unprofessional conduct in that Respondent used drugs/alcohol to the extent or in a manner as to  
5 be dangerous or injurious to oneself or to the public. The circumstances are set forth below:

6 20. On or about October 14, 2010, just before midnight, Los Angeles police officers were  
7 parked in a marked black and white police vehicle on 24th Street at the intersection with Long  
8 Beach Avenue in Newton. The officers observed a 2011 grey Chevy Malibu make a westbound  
9 turn from southbound Long Beach Avenue. The driver of the Malibu, ultimately determined to  
10 be Respondent, turned westbound onto 24th Street at a high rate of speed; approximately 40 in a  
11 25 mph zone. Respondent was driving so fast that the tires lost traction and began to squeal as  
12 the vehicle turned. As Respondent drove past the officers, they observed the Malibu cross from  
13 the #1 westbound lane onto the #1 eastbound lane, and then back again into the #1 westbound  
14 lane. The officers then activated their police vehicle lights and siren, and stopped the Malibu.  
15 When one of the officers approached Respondent, she stated, "I don't have my driver's license on  
16 me, I just got a DUI a few weeks ago." During his conversation with Respondent, the officer  
17 observed blood shot and watery eyes, and an odor of alcoholic beverages on her breath. Inside  
18 the vehicle, the officer observed a case of New Castle (12 oz. bottles) beers on the rear right floor  
19 board. The officer asked Respondent to exit the vehicle. As she did so, the officer noticed a clear  
20 glass container containing 157.99 grams (5.57 ounces) of marijuana in the center console. The  
21 officer also recovered a multi-colored smoking pipe with burnt residue inside it, and a tan  
22 envelope with 2 pink pills with a "transformer" stamp, resembling Ecstasy in Respondent's  
23 vehicle. The officers then tested Respondent's breath for alcohol. The first test resulted in a  
24 blood alcohol level of .18%, and the second test resulted in a blood alcohol level of .17%.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(September 30, 2011 Conviction for Petty Theft on July 11, 2011)**

27 21. Respondent is subject to disciplinary action under section 4301, subdivision (l), and  
28 490, for unprofessional conduct in that Respondent was convicted of a crime substantially related



1 to the qualifications, functions, and duties of a pharmacy technician. The circumstances are as  
2 follows:

3 22. On September 30, 2011, in a criminal case entitled *The People of the State of*  
4 *California v. Monica Dee Robles*, Orange County Superior Court case number BPD 11-004243,  
5 Respondent was convicted by her plea of guilty to violating Penal Code sections 484, subdivision  
6 (a) to 488, petty theft, a misdemeanor.

7 23. The facts that led to this conviction are that on or about July 11, 2011, Respondent  
8 engaged in shoplifting at JC Penny with an accomplice.

9 24. Based on her conviction, Respondent was sentenced to summary probation for a  
10 period of 36 months, under the following terms and conditions: (1) obey all laws, ordinances,  
11 and court orders; (2) submit to search and seizure; (3) use true name and date of birth at all  
12 times; (4) carry a valid picture identification at all times; (5) disclose probation terms upon  
13 request of Peace Officer; (6) pay \$100.00 State Restitution Fine; (7) pay \$40.00 security fee; (8)  
14 pay \$30.00 criminal conviction assessment fee; (9) make restitution in an amount to be  
15 determined; serve five days in the Orange County Jail; (10) complete five days of service at Cal  
16 Trans; and (11) stay away from all JC Penny stores in Orange County.

17 **PRAYER**

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

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21 1. Revoking or suspending Pharmacy Technician Registration Number TCH 100652  
22 issued to Monica Dee Robles;

23 2. Ordering Monica Dee Robles to pay the Board of Pharmacy the reasonable costs of  
24 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
25 125.3;

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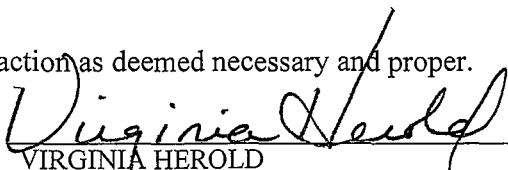
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3. Taking such other and further action as deemed necessary and proper.

DATED: 1/24/12



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

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