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

11 In the Matter of the Accusation Against:

Case No. 4581

12 **PETER J. SULLENGER**
13 **7797 N. First Street # 66**
14 **Fresno, CA 93720**

ACCUSATION

15 **Pharmacy Technician Registration No. TCH 26660**

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 August 3, 1998, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 26660 to Peter J. Sullenger (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought in this
24 Accusation and will expire on March 31, 2014, unless renewed.

25 **JURISDICTION**

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 unless otherwise indicated.

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4. Section 4300 of the Code states, in part:

"(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.

...

"(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 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

STATUTORY PROVISION

6. Section 4301 provides that the board shall take action against any holder of a license guilty of unprofessional conduct.

COST RECOVERY

7. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

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

3 CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct)

5 8. Respondent has subjected his pharmacy technician registration to discipline for
6 violation of Code section 4301 (Unprofessional Conduct). The circumstances are described
7 below.

8 9. On or about April 24, 2012, California Highway Patrol arrested Respondent for
9 violation of Health and Safety Code sections 11359 (Possession of Marijuana for Sale) and
10 11360, subdivision (a) (Transportation of Marijuana). The arrest occurred off westbound
11 Interstate 580, just west of the Alameda County line, where an officer stopped Respondent's car
12 after noticing that it lacked a front license plate, had tinted front windows, and had a clear license
13 plate cover over the rear license plate. While Respondent was gathering his license and
14 registration, the officer noticed an odor of marijuana coming from inside the car. The officer
15 asked Respondent if there was any marijuana in the car and Respondent said no. After another
16 officer arrived to assist in a search of the car, the officers found a plastic bag in the trunk that
17 contained what turned out to be 1.546 kilograms (3.4 pounds) of marijuana. Officers also found
18 marijuana residue in the storage drawer under the driver's seat. Respondent did not have a
19 medical marijuana card; moreover, the amount of marijuana Respondent was transporting was
20 greater than the amount a typical user would possess for personal use.

21 PRAYER

22 THEREFORE, Complainant requests that a hearing be held on the matters alleged in this
23 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

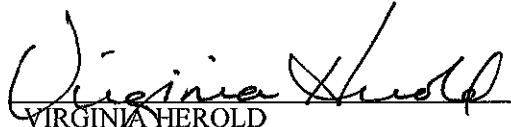
24 1. Revoking or suspending Pharmacy Technician Registration Number TCH 26660,
25 issued to Peter J. Sullenger;

26 2. Ordering Peter J. Sullenger to pay the Board of Pharmacy the reasonable costs of the
27 investigation and enforcement of this case, pursuant to Business and Professions Code section
28 125.3;

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

DATED: 9/6/13


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

SF2013901521