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

11 In the Matter of the Accusation Against:

Case No. 4655

12 **MATTHEW VUE**
13 **aka MATHEW VUE**
8346 Lancraft Drive
Sacramento, CA 95823

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 86594

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about November 20, 2008, the Board issued Pharmacy Technician Registration
24 Number TCH 86594 to Matthew Vue, also known as Mathew Vue, ("Respondent"). The

25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
26 brought herein and will expire on August 31, 2014, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
4 indicated.

5 4. Section 4300 of the Code provides, in pertinent part, that for every license issued by
6 the Board, the Board may suspend, revoke, default, suspend judgment, place on probation,
7 suspend the right to practice for up to one year, or take other disciplinary action which the Board,
8 in its discretion, deems proper.

9 5. Section 4300.1 of the Code states:

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

14 **STATUTORY PROVISIONS**

15 6. Section 4301 of the Code states:

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

20 (h) The administering to oneself, of any controlled substance, or the use
21 of any dangerous drug or of alcoholic beverages to the extent or in a manner
22 as to be dangerous or injurious to oneself, to a person holding a license under
23 this chapter, or to any other person or to the public, or to the extent that the
24 use impairs the ability of the person to conduct with safety to the public the
25 practice authorized by the license.

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

28 7. Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe
for self-use in humans or animals and includes the following:

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

1 (b) Any device that bears the statement: "Caution: federal law restricts
2 this device to sale by or on the order of a _____, "Rx only," or words of
3 similar import, the blank to be filled in with the designation of the
4 practitioner licensed to use or order use of the device.

5 (c) Any other drug or device that by federal or state law can be
6 lawfully dispensed only on prescription or furnished pursuant to Section
7 4006.

8 8. Code section 4060 states:

9 No person shall possess any controlled substance, except that furnished
10 to a person upon the prescription of a physician, dentist, podiatrist,
11 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7,
12 or furnished pursuant to a drug order issued by a certified nurse-midwife
13 pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a
14 physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant
15 to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or
16 4444052.2. This section shall not apply to the possession of any controlled
17 substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician,
18 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
19 nurse-midwife, nurse practitioner, or physician assistant, when in stock in
20 containers correctly labeled with the name and address of the supplier or
21 producer.

22 Nothing in this section authorizes a certified nurse-midwife, a nurse
23 practitioner, a physician assistant, or a naturopathic doctor, to order his or her
24 own stock of dangerous drugs and devices.

25 9. Health and Safety Code section 11377 provides, in pertinent part, that it is unlawful
26 to possess Schedule II controlled substances without a prescription of a physician, dentist,
27 podiatrist, or veterinarian, licensed to practice in the State of California.

28 **DRUGS**

10 10. **Amphetamine** is a Schedule II controlled substance as designated by Health and
11 Safety Code section 11055, subdivision (d)(1), and a dangerous drug within the meaning of Code
12 section 4022.

13 11. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety
14 Code section 11054, subdivision (d)(13), and a dangerous drug within the meaning of Code
15 section 4022.

16 12. **Methamphetamine** is a Schedule II controlled substance as designated in Health
17 and Safety Code section 11055, subdivision (d)(2), and a dangerous drug within the meaning of
18 Code section 4022.

1 13. **MDMA** (3, 4-methylenedioxyamphetamine) is a Schedule I controlled
2 substance as designated in Code of Federal Regulations, Title 21, Part 1308, 51 Fed. Reg. 36552
3 (10/14/1986), and a dangerous drug within the meaning of Code section 4022. MDMA is a
4 synthetic, psychoactive drug with a chemical structure similar to the stimulant Methamphetamine
5 and the hallucinogen Mescaline. MDMA is a chemical used in **Ecstasy**, which is generally laced
6 with other ingredients such as Methamphetamine. **Molly**, short for molecule, is considered to be
7 pure MDMA, and is the powder or crystal form of MDMA.

8 14. **Mescaline** is a Schedule I controlled substance as designated in Health and Safety
9 Code section 11054, subdivision (d)(14), and a dangerous drug within the meaning of Code
10 section 4022.

11 **COST RECOVERY**

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

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Violation of Statutes Regulating Controlled Substances)**

18 16. Respondent's license is subject to disciplinary action under Code sections 4300 and
19 4301, subdivision (j), on the grounds of unprofessional conduct, in that on or about on or about
20 December 5, 2012, Respondent was in possession of Marijuana, two MDMA tablets and twelve
21 Molly tablets, without lawful prescriptions in violation of Code section 4060 and Health and
22 Safety Code section 11377. The MDMA, and Molly tablets tested Nartec¹ presumptive positive
23 for Amphetamine. Respondent admitted to a law enforcement officer that he owned the
24 Controlled Substances and used them for recreational use.

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27 ¹ Nartec is a standard presumptive test used in the field by law enforcement to obtain
28 quick results in testing an unknown substance for Methamphetamine.

