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9	DEPODE 4	NATE:
	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFEATRS	
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
11		
12		e No. 4796
13	NICHOLAS CAL VANDERSLOOT 415 E. Modoc St.	
14	Alturas, CA 96101	CCUSATION
15	Pharmacist License No. 66743	
16	Respondent.	
17		
18	Virginia Herold ("Complainant") alleges:	
19	PARTIES	
20	1. Complainant brings this Accusation solely in her official capacity as the Executive	
21	Officer of the Board of Pharmacy, Department of Consumer Affairs.	
22	2. On or about December 19, 2011, the Board of Pharmacy issued Pharmacist License	
23	Number 66743 to Nicholas Cal Vandersloot ("Respondent"). The Pharmacist License was in full	
24	force and effect at all times relevant to the charges brought herein and will expire on February 28,	
25	2015, unless renewed.	
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28	<i>III</i>	
	1	

Accusation

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### **JURISDICTION**

- 3. This Accusation is brought before the Board of Pharmacy ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Code section 4300 states, in pertinent part, that every license issued may be suspended or revoked.
  - 5. Code section 4300.1 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 PROVISIONS

6. Code section 4301 states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct. Unprofessional conduct shall include, but is not limited to, any of the following:

- (h) The use of any alcoholic beverages to the extent or in a manner as to be dangerous or
- injurious to oneself,, or to any other person or to the public, or to the extent that the use impairs
- the ability of the person to conduct with safety to the public the practice authorized by the license.
- (1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.
  - "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
- violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the
- board or by any other state or federal regulatory agency."

### COST RECOVERY

7. Section 125.3 of the Code provides, 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 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

### FIRST CAUSE FOR DISCIPLINE

### (Conviction of Crime)

- 8. Respondent is subject to discipline under Code section 4301, subdivision (*l*), in that on about April 23, 2013, in the matter of *People v. Nicholas Vandersloot* (Superior Court, Modoc County Case No. M-13-144), Respondent was convicted on his plea of guilty of violating Penal Code section 647, subdivision (f) (Public Intoxication), a misdemeanor. The circumstances are as follows:
- 9. On or about March 29, 2013 at approximately 11:5 p.m., while patrolling the streets of Alturas, Officer Dowdy located Respondent walking and staggering in a serpentine manner on Modoc Street. Upon contacting Respondent, the officer found Respondent to be extremely intoxicated. During the investigation, the officer found Respondent had an unsteady gait, and odor of unknown alcoholic beverage emitting from his person, and extremely slurred speech. In addition, during the entire time the officer interviewed Respondent, other than when he obtained his wallet to provide his license, Respondent held onto a pole that supported a street sign, with his left hand, to help him maintain his balance. Respondent also swayed in somewhat of a circular motion as he held onto the pole. Respondent advised the officer that he was headed home, located down the street. Upon completion of the interview, the officer found Respondent to be in a public place, so intoxicated that he was unable to care for his own safety. Respondent was arrested for violation of Penal Code section 647, subdivision (f) (Public Intoxication). Respondent was transported to the Modoc County Jail, and submitted to a breath sample. Respondent's breath sample returned a blood alcohol content (BAC) of .34%.

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### SECOND CAUSE FOR DISCIPLINE

### (Dangerous Use of Alcohol)

10. Respondent is subject to discipline under Code section 4301, subdivision (h), on the grounds of unprofessional conduct, in that on or about March 29, 2013, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to himself and the public when he was intoxicated in a public place with a BAC of .34%, as more particularly set forth above in paragraph 9.

### THIRD CAUSE FOR DISCIPLINE

### (Violating Laws and Regulations Governing Pharmacy)

11. Respondent is subject to discipline under Code section 4301, subdivision (o), in that Respondent violated the laws and regulations governing pharmacy, as set forth above in paragraphs 8 through 10.

### **PRAYER**

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

- 1. Revoking or suspending Pharmacist License Number 66743, issued to Nicholas Cal Vandersloot.;
- 2. Ordering Nicholas Cal Vandersloot to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
  - 3. Taking such other and further action as deemed necessary and proper.

Executive Officer

Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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