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

11 In the Matter of the Accusation Against:

Case No. 5297

12 **ENRIQUE RODRIGUEZ**
1737 Via Lacqua
13 San Lorenzo, CA 94580

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
172559

15 Respondent.
16

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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about December 4, 2006, the Board issued Pharmacy Technician Registration
23 Number TCH 72559 to Enrique Rodriguez (Respondent). The Pharmacy Technician Registration
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 June 30, 2016, 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 4011 of the Code provides that the Board shall administer and enforce both
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
7 Act [Health & Safety Code, § 11000 et seq.].

8 5. Section 4300.1 of the Code states:

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

14 **STATUTORY PROVISIONS**

15 6. Section 4060 of the Code provides, in relevant part:

16 "No person shall possess any controlled substance, except that furnished to a person upon
17 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
18 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
19 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
20 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
21 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
22 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
23 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
24 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
25 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
26 labeled with the name and address of the supplier or producer.

27 ..."

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1 7. Section 4301 of the Code provides, in relevant part:

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

5 ...

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

8 ...

9 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
10 violation of or conspiring to violate any provision or term of this chapter or of the applicable
11 federal and state laws and regulations governing pharmacy, including regulations established by
12 the board or by any other state or federal regulatory agency.

13 ...”

14 8. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
15 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
16 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

17 9. Marijuana is a Schedule I controlled substance as designated by Health and Safety
18 Code section 11054, subdivision (d)(13), and a dangerous drug as designated by Business and
19 Professions Code section 4022. It is a hallucinogenic drug.

20 10. Psilocybin is a Schedule I controlled substance as designated by Health and Safety
21 Code section 11054, subdivision (d)(18), and a dangerous drug as designated by Business and
22 Professions Code section 4022. It is a hallucinogenic drug.

23 11. Methamphetamine is a Schedule II controlled substance as designated by Health and
24 Safety Code section 11055, subdivision (d)(2) and a dangerous drug as designated by Business
25 and Professions Code section 4022. It is a stimulant drug.

26 **COSTS**

27 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
28 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, with failure of the licentiate to comply subjecting the license to not being
3 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
4 included in a stipulated settlement.

5 **FACTUAL BACKGROUND**

6 13. On or about April 10, 2014, the vehicle in which Respondent was traveling was
7 stopped and searched at a music festival in Indio, California. Security guards working for the
8 music festival discovered various drugs in the vehicle, including marijuana, approximately four
9 (4) psilocybin mushrooms, and approximately twenty-eight (28)
10 methylenedioxymethamphetamine (MDMA) pills, also known as ecstasy. While at the scene,
11 Respondent told an officer with the Riverside County Sheriff's Office that the marijuana,
12 psilocybin mushrooms, and MDMA pills belonged to Respondent.

13 **CAUSE FOR DISCIPLINE**

14 **(Illegal Possession of Controlled Substances)**

15 14. Respondent is subject to disciplinary action under section 4301, subdivisions (j)
16 and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that
17 Respondent possessed controlled substances without a prescription. The circumstances of
18 Respondent's conduct are set forth above in paragraph 13.

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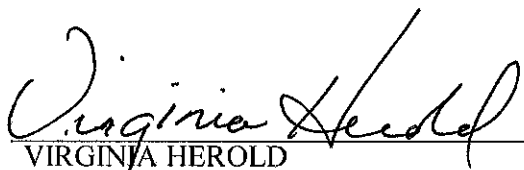
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PRAYER

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 Pharmacy Technician Registration Number TCH 72559 issued to Enrique Rodriguez;
2. Ordering Enrique Rodriguez 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.

DATED: 2/23/15 

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

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