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

12 In the Matter of the Accusation Against:

Case No. 5678

13 **JUAN CARLOS MORALES-ACEVEDO**  
2368 N615 Hanover  
14 **Fresno, CA 93722**

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

15 **Pharmacy Technician Registration No. TCH**  
138598

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 ("Board"), Department of Consumer Affairs.

22 2. On or about March 17, 2014, the Board issued Pharmacy Technician Registration  
23 Number TCH 138598 ("registration") to Juan Carlos Morales-Acevedo ("Respondent"). The  
24 registration was in full force and effect at all times relevant to the charges brought herein. The  
25 license expired on April 30, 2015, and was cancelled on August 2, 2015.

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## JURISDICTION

3. Business and Professions Code ("Code") section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

4. 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

5. Code section 4301 states, in pertinent part:

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

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, 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.

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

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

1 **COST RECOVERY**

2 6. Code section 125.3 provides, in pertinent part, that a Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **DRUGS**

7 7. "Marijuana" is a Schedule I controlled substance as designated by Health and Safety  
8 Code section 11054(d)(13).

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Conviction of a Crime)**

11 8. Respondent is subject to discipline under Code section 4301(i), on the grounds of  
12 unprofessional conduct, in that on or about February 25, 2015, in the case of *People v. Juan*  
13 *Acevedo aka Juan Morales*, (Super. Fresno County, 2014, Case No. F14911370), Respondent was  
14 convicted by the Court on his plea of guilty of violating Health and Safety Code section 11359  
15 (possession of Marijuana for sale), a felony. The circumstances of the crime were that on or  
16 about December 26, 2014, following a routine traffic stop, the officer found that Respondent  
17 possessed over 218 grams of Marijuana in his vehicle for the purposes of selling it, along with a  
18 scale, plastic baggies, cash, and a separate cellular phone for drug transactions. The crime is  
19 substantially related to the qualifications, functions or duties of a pharmacy technician.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Violation of State Laws Regulating Controlled Substances)**

22 9. Respondent is subject to discipline pursuant to Code section 4301(j), on the grounds  
23 of unprofessional conduct, in that while a registered pharmacy technician, Respondent violated  
24 statutes regulating controlled substances, as follows:

25 **December 26, 2014**

26 a. Respondent violated Health and Safety Code section 11359, in that Respondent  
27 possessed Marijuana for sale, as more particularly set forth above in paragraph 8.  
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1 b. Respondent violated Health and Safety Code section 11360(a), in that Respondent  
2 sold, transported, or offered to sell Marijuana, as more particularly set forth above in paragraph 8.

3 c. Respondent violated Code section 4060, in that he possessed Marijuana without  
4 authorization or a valid prescription, as more particularly set forth above in paragraphs 8.

5 **February 20, 2015**

6 d. Respondent violated Code section 4060, in that he possessed Marijuana without  
7 authorization or a valid prescription. The facts and circumstances are that on or about February  
8 20, 2015, during a routine traffic stop, the police officer found that Respondent, who was the  
9 driver, smelled strongly of Marijuana. When the officer asked Respondent regarding the use of  
10 Marijuana, he admitted that he had smoked Marijuana that day.

11 e. Respondent violated Health and Safety Code section 11170, in that Respondent self-  
12 administered Marijuana, as more particularly set forth above in paragraph 9(d).

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Dangerous Use of a Controlled Substance)**

15 10. Respondent is subject to discipline pursuant to Code section 4301(h), on the grounds  
16 of unprofessional conduct, in that on or about February 20, 2015, Respondent used a controlled  
17 substance, Marijuana, to the extent or in a manner as to be dangerous or injurious to oneself and  
18 to the public, when he drove a vehicle while under the influence of Marijuana, as more  
19 particularly set forth above in paragraph 9(d).

20 **PRAYER**

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

23 1. Revoking or suspending Pharmacy Technician Registration Number TCH 138598,  
24 issued to Juan Carlos Morales-Acevedo;

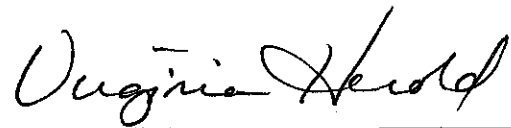
25 2. Ordering Juan Carlos Morales-Acevedo to pay the Board of Pharmacy the reasonable  
26 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
27 Code section 125.3; and,

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

DATED: 4/18/16



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

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