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8	Attorneys for Complainant							
9	BEFORE THE BOARD OF PHARMACY DEPARTMENTS OF CONSUMERS A FEET ADD.							
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA							
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11	In the Matter of the Accusation Against:	Case No. 6129						
12	JULIE LEANNE PAGLIERO 1968 Diamond Way	•						
13	Fairfield, CA 94533	ACCUSATION						
14	Pharmacy Technician License No. TCH 153820							
15	Respondent							
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17								
18	Complainant alleges:							
19	<u>PA</u>	<u>RTIES</u>						
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity							
21	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.							
22	2. On or about April 8, 2016, the Board of Pharmacy issued Pharmacy Technician							
23	License Number TCH 153820 to Julie Leanne Pagliero (Respondent). Respondent's Pharmacy							
24	Technician License was in full force and effect at all times relevant to the charges brought herein							
25	and will expire on February 28, 2018, unless renewed.							
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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 (Code) unless otherwise indicated.
- 4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].
- 5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.
  - 6. 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 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

7. Section 4301 of the Code states:

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

(i) The violation of any of the statu

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

III

- 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous drug or dangerous device except upon the prescription of an authorized prescriber.
- 9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.
- 10. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess any controlled substance listed in Schedule II [Health & Safety Code, § 11055], subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.
- 11. Health and Safety Code section 11375, subdivisions (b)(1) and (c)(12), make the sale, or possession for sale, of Alprazolam punishable by imprisonment for up to one year. Health and Safety Code section 11375, subdivisions (b)(2) and (c)(12), makes possession of Alprazolam without a prescription an infraction or a misdemeanor.

## REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

#### CONTROLLED SUBSTANCES/DANGEROUS DRUGS

13. Section 4021 of the Code states:

"Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

14. Section 4022 of the Code states, in pertinent part:

"'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self use, except veterinary drugs that are labeled as such, 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.

- (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."
- 15. **Alprazolam** is a dangerous drug as designated by Business and Professions Code section 4022. Alprazolam is commonly known by its brand name Xanax, and is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1). It is a depressant drug.

## COSTS

16. 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.

## **FACTUAL SUMMARY**

- 17. According to Respondent's April 4, 2017, letter to the Board, she has been employed at the pharmacy at Raley's in Benicia, California, since July 2016. Respondent is employed as a pharmacy technician.
- 18. On or about October 12, 2016, the Vacaville Police Department executed a search warrant at Respondent's home pursuant to an investigation into a home-invasion robbery. Respondent's nephew, who was staying at the home with Respondent, was a suspect in the home-invasion robbery. Before executing the search warrant, officers observed Respondent exit the residence and place something inside her vehicle. The officers then served the warrant, and searched the residence and Respondent's vehicle. Officers found an unmarked pill bottle containing 50 tablets of Alprazolam, a controlled substance, in Respondent's vehicle.
- 19. Respondent was subsequently charged with sale or possession for sale of Alprazolam in a criminal proceeding entitled *People of the State of California v. Julie Leanne Pagliero*, in Solano County Superior Court, case no. FCR325934, in a misdemeanor complaint filed in that

1	court on November 23, 2016. Respondent appeared on July 5, 2017, and was admitted to a						
2	deferred entry of judgment program under certain conditions after pleading guilty to a violation of						
3	Health and Safety Code section 11375, subdivision (b).						
4	FIRST CAUSE FOR DISCIPLINE .						
5	(Possession of Controlled Substance)						
6	20. Respondent has subjected her license to discipline under section 4301, subdivisions						
7	(j) and/or (o), of the Code, and/or Health and Safety Code sections 11350 and 11375, in that						
8	Respondent, as described in paragraphs 17 through 19, possessed Alprazolam without a						
9	prescription.						
10	SECOND CAUSE FOR DISCIPLINE						
11	(Unprofessional Conduct)						
12	21. Respondent has subjected her license to discipline under section 4301, subdivisions						
13	(j) and/or (o) of the Code in that Respondent, as described in paragraphs 17 through 19, engaged						
14	in unprofessional conduct.						
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15	<u>PRAYER</u>						
15 16	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,						
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1	3. Taking such other and further action as deemed necessary and proper.						
2		9/11/17		/) ·		/	
3	DATED:	4/11/14		(Jug me	V. 9		•
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5				Board of Pharmac Department of Con State of California	y nsumer Affairs		
6				Complainant			
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