

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DOMINIC ANTHONY DE LA CRUZ,

Pharmacy Technician Registration
No. TCH 134481

Respondent.

Case No. 5442

OAH No. 2015090825

NOTICE REGARDING ORDER GRANTING RECONSIDERATION

The California State Board of Pharmacy adopted the Proposed Decision in this matter on May 3, 2016, and set it to become effective at 5 p.m. on June 2, 2016.

Complainant timely requested reconsideration. The board voted to grant reconsideration, but issued an Order granting reconsideration dated June 3, 2016. Given that the Order Granting Petition for Reconsideration was not issued prior to the effective date, the board's Order dated June 3, 2016, had no effect.

Accordingly, the board's May 3, 2016, Decision adopting the proposed decision is the final Decision in this matter, which became effective at 5 p.m. on June 2, 2016, as indicated therein.

IT IS SO ORDERED on this 21st day of December, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

**BEFORE THE
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TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

ORDER SETTING DATE FOR SUBMISSION OF WRITTEN ARGUMENT

The administrative record of the hearing in the above-entitled matter having now become available, the parties are hereby notified of the opportunity to submit written arguments in accordance with the Order Granting Petition for Reconsideration and Stay of Execution of the Effective Date of Decision and Order dated June 3, 2016.

Written argument shall be filed with the Board of Pharmacy, 1625 N. Market Blvd., Suite N-219, Sacramento, California, on or before July 8, 2016. **No new evidence may be submitted.**

IT IS SO ORDERED this 21st day of June 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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**ORDER GRANTING
PETITION FOR
RECONSIDERATION AND
STAY OF EXECUTION OF
THE EFFECTIVE DATE OF
DECISION AND ORDER**

Complainant having requested reconsideration of the decision in the above-entitled matter, and good cause appearing, IT IS HEREBY ORDERED:

- (1) That reconsideration be, and is, hereby granted;
- (2) That the parties will be notified of the date for submission of any written argument they may wish to submit when the administrative record of the above-mentioned hearing becomes available; and
- (3) The Decision of the Board in this matter issued on May 3, 2016, is hereby stayed until the Board renders its decision on reconsideration.

The board itself will decide the case upon the record, including the exhibits and written argument of the parties, without taking additional evidence.

IT IS SO ORDERED on this 3rd day of June 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DOMINIC ANTHONY DE LA CRUZ,

Pharmacy Technician Registration
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Respondent.

Case No. 5442

OAH No. 2015090825

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on June 2, 2016.

It is so ORDERED on May 3, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DOMINIC ANTHONY DE LA CRUZ,

Pharmacy Technician Registration
No. TCH 134481

Respondent.

Case No. 5442

OAH No. 2015090825

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on February 22, 2016, in Oakland, California.

Susana A. Gonzales, Deputy Attorney General, represented complainant Virginia Herold, in her official capacity as Executive Officer of the Board of Pharmacy (Board).

Edgardo Gonzalez, Attorney at Law, represented respondent Dominic Anthony De la Cruz, who was present at the hearing.

The matter was submitted on February 22, 2016.

FACTUAL FINDINGS

1. On October 14, 2013, the Board issued Pharmacy Technician Registration No. TCH 134481 to respondent. As of March 27, 2015, respondent's registration was in full force and effect, and was scheduled to expire March 31, 2017.

2. On August 10, 2015, complainant issued an accusation seeking revocation or suspension of respondent's pharmacy technician registration. Complainant alleges that respondent acted unprofessionally on September 20, 2014, by unlawfully possessing a controlled substance. Respondent requested a hearing on the accusation.

Basis for Proposed Discipline

3. On September 20, 2014, respondent and a friend planned to attend a daylong music and art festival. They arrived at the venue in the late morning and parked their car. As they prepared to get out of the car and go into the performance area, respondent saw a uniformed police officer patrolling the parking area by motorcycle. The officer made eye contact with respondent, who “freaked out a little bit” and expressed alarm on his face.

4. The officer parked his motorcycle and asked respondent to roll down the car window. They conversed, and respondent admitted that he possessed several tablets of MDMA (3,4-methylenedioxy-methamphetamine, a drug also known as “Ecstasy”) that he had intended to consume during the festival. Complainant and respondent stipulated that MDMA is a controlled substance regulated by Health and Safety Code section 11377, subdivision (a), and that respondent had no lawful reason for possessing it.

Additional Evidence

5. Respondent was arrested. The arresting officer searched respondent’s person and his car, and seized 12 MDMA tablets and a cigarette package that had contained some of the tablets. The officer did not report having found any syringes or needles.

6. The arresting officer reported that respondent had said that he planned to “inject” the MDMA, and a Board investigator testified that users sometimes crush and dissolve MDMA tablets to inject the drug. Respondent testified credibly that he had not said “inject,” but instead had said “ingest”; he testified further that he has never used MDMA by injecting it. The evidence did not establish that respondent intended to consume the MDMA tablets he possessed on September 20, 2014, by dissolving and injecting them.

7. In February 2015, respondent entered a program for “deferred entry of judgment” (DEJ; *see* Pen. Code, § 1000 et seq.) for the criminal charges that resulted from his September 2014 arrest. He paid certain fines and fees, and participated in education and counseling. He completed all DEJ program requirements in May 2015, and expects the charges to be dismissed in July 2016.

8. Respondent testified that he is not and never has been dependent on drugs. He first used MDMA recreationally in early 2014. He used it occasionally during 2014, approximately once every other month and strictly on social occasions. He last used MDMA on New Year’s Eve after his arrest, but has given it up because he does not want to risk further harm to himself or his family.

9. Respondent’s arrest in September 2014 was his only arrest. Although he acknowledged by entering the DEJ program that he had committed a crime, he has never been convicted of any crime.

10. Respondent was born in 1992 and graduated from Heald College in 2013.

11. Respondent is the lead pharmacy technician at a CVS store. He began working at this store as a cashier in June 2012, while he was still in college. After he received his pharmacy technician registration in October 2013, he began to work in the store pharmacy. He was promoted to lead pharmacy technician about a year later. Respondent has received consistently positive performance evaluations from his supervisors and co-workers.

12. In addition to the education component of the DEJ program, respondent has taken a continuing pharmacy education course regarding substance abuse. He also has attended several meetings of "Narcotics Anonymous," to familiarize himself with drug abusers' life experiences.

Costs

13. Complainant introduced no evidence regarding the costs for investigating or prosecuting this matter.

LEGAL CONCLUSIONS

1. The Board may discipline a licensee for "unprofessional conduct," such as "violation of any of the statutes of this state . . . regulating controlled substances and dangerous drugs." (Bus. & Prof. Code, § 4301, subd. (j).) The matters set forth in Finding 4 establish respondent's violation of Health and Safety Code section 11377, subdivision (a), and constitute cause under subdivision (j) of Business and Professions Code section 4301 to discipline respondent's pharmacy technician registration.

2. The Board also may discipline a licensee for violating any provision of Chapter 9 of Division 2 of the Business and Professions Code, relating to pharmacies. (Bus. & Prof. Code, § 4301, subd. (o).) Chapter 9 includes its own prohibition on possessing controlled substances without prescription. (*Id.*, § 4060.) The matters set forth in Finding 4 establish respondent's violation of Business and Professions Code section 4060, and constitute cause under subdivision (o) of Business and Professions Code section 4301 to discipline respondent's pharmacy technician registration.

3. As set forth in Findings 3, 8, and 9, the evidence did not establish that respondent's possession of MDMA on September 20, 2014, was related to any habitual drug use or abuse. In light of all the evidence, the circumstances of respondent's arrest and work history do not suggest that he is more likely than any other pharmacy technician to suffer mental impairment on the job, or that he is more likely than any other pharmacy technician to divert controlled substances from his workplace. Public protection is the chief purpose of the Board's disciplinary authority (Bus. & Prof. Code, § 4313), but public protection in this case does not require the Board to prevent respondent from working as a pharmacy technician.

4. The circumstances of respondent's arrest do demonstrate insufficient regard for the laws governing possession and use of controlled substances. Whether or not respondent agrees with the medical and value judgments those laws reflect, his professional responsibilities as a pharmacy technician include respecting and implementing state and federal drug laws.

5. As set forth in Findings 7 and 12, respondent has undertaken appropriate rehabilitation following his arrest, by familiarizing or re-familiarizing himself with controlled substance laws and with the potential consequences of substance abuse. A period of probation will permit the Board to confirm that respondent continues to follow the law governing possession and use of controlled substances.

6. Because complainant did not prove entitlement to reimbursement of any specific amount for investigative or prosecution costs, respondent's conditions of probation will not include a reimbursement order.

ORDER

Pharmacy Technician Registration No. TCH 134481, issued to respondent Dominic Anthony De la Cruz, is revoked. The revocation is stayed, however, and respondent is placed on probation for three years, upon the following terms and conditions:

1. Certification Prior to Resuming Work

Respondent shall be automatically suspended from working as a pharmacy technician until he is certified as defined by Business and Professions Code section 4202(a)(4) and provides satisfactory proof of certification to the Board. Respondent shall not resume working as a pharmacy technician until notified by the Board. Failure to achieve certification within one year shall be considered a violation of probation.

During suspension, respondent shall not enter any pharmacy area or any portion of any other Board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the Board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises by the Board in which he holds an interest at

the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

2. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- a. an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws;
- b. a plea of guilty or *nolo contendere* in any state or federal criminal proceeding to any criminal complaint, information or indictment;
- c. a conviction of any crime; or
- d. discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacy technician registration or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report any such occurrence shall be considered a violation of probation.

3. Report to the Board

Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

4. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear at two or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

5. Cooperate with Board Staff

Respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of respondent's compliance with the terms and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

6. Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 5442 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

- a. Within 30 days of the effective date of this decision, and within 15 days of undertaking any new employment, respondent shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5442 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the Board.
- b. If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in case number 5442 in advance of the respondent commencing work at each pharmacy. A record of this notification must be provided to the Board upon request.
- c. Furthermore, within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 5442 and the terms and conditions imposed thereby. It

shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

Failure to timely notify present or prospective employer(s) or to cause the employer(s) to submit timely acknowledgements to the Board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician registration is a requirement or criterion for employment, whether the respondent is considered an employee, independent contractor or volunteer.

7. Probation Monitoring Costs

Respondent shall pay any costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

8. Status of Registration

Respondent shall, at all times while on probation, maintain an active, current pharmacy technician registration with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current registration shall be considered a violation of probation.

If respondent's pharmacy technician registration expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's registration shall be subject to all terms and conditions of this probation not previously satisfied.

9. Registration Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his pharmacy technician registration to the Board for surrender. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the registration, respondent will no longer be subject to the terms

and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's registration history with the Board.

Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician registration to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license or registration sought as of the date the application for that license or registration is submitted to the Board.

10. Notification of a Change in Name, Residence Address, Mailing Address or Employment

Respondent shall notify the Board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent shall further notify the Board in writing within 10 days of a change in name, residence address and mailing address, or phone number.

Failure to timely notify the Board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

11. Tolling of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 80 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, *i.e.*, the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease working as a pharmacy technician for a minimum of 80 hours per calendar month in California, respondent must notify the Board in writing within 10 days of cessation of work and must further notify the Board in writing within 10 days of the resumption of the work. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 36 months.

“Cessation of work” means calendar month during which respondent is not working for at least 80 hours as a pharmacy technician, as defined in Business and Professions Code section 4115. “Resumption of work” means any calendar month during which respondent is working as a pharmacy technician for at least 80 hours as a pharmacy technician as defined by Business and Professions Code section 4115.

12. Violation of Probation

If a respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the registration. If a petition to revoke probation or an accusation is filed against respondent during probation, the Board shall have continuing jurisdiction, and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

13. Completion of Probation

Upon written notice by the Board indicating successful completion of probation, respondent’s pharmacy technician registration will be fully restored.

DATED: February 25, 2016

DocuSigned by:
Juliet E. Cox
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JULIET E. COX
Administrative Law Judge
Office of Administrative Hearings

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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. 5442

12 **DOMINIC ANTHONY DE LA CRUZ**
13 **339 Frankfort Street**
Daly City, CA 94014

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **134481**

16 Respondent.

17 Complainant alleges:

18 PARTIES

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

21 2. On or about October 14, 2013, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 134481 to Dominic Anthony De La Cruz ("Respondent"). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought in this Accusation and will expire on March 31, 2017, unless renewed.

25 ///

26 ///

27 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board of Pharmacy ("Board"), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4300 of the Code states:

6 “(a) Every license issued may be suspended or revoked.

7 “(b) The board shall discipline the holder of any license issued by the board, whose default
8 has been entered or whose case has been heard by the board and found guilty, by any of the
9 following methods:

10 “(1) Suspending judgment.

11 “(2) Placing him or her upon probation.

12 “(3) Suspending his or her right to practice for a period not exceeding one year.

13 “(4) Revoking his or her license.

14 “(5) Taking any other action in relation to disciplining him or her as the board in its
15 discretion may deem proper.

16 ...

17 “(e) The proceedings under this article shall be conducted in accordance with Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
19 shall have all the powers granted therein. The action shall be final, except that the propriety of the
20 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
21 Procedure.”

22 5. Section 4300.1 of the Code states:

23 “The expiration, cancellation, forfeiture, or suspension of a board-issued license by
24 operation of law or by order or decision of the board or a court of law, the placement of a license
25 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
26 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
27 proceeding against, the licensee or to render a decision suspending or revoking the license.”

28 ///

STATUTORY AND REGULATORY PROVISIONS

6. 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 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...
“(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.

...
“(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.”

7. Code section 4060 states:

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

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

1 COST RECOVERY

2 11. Section 125.3 of the Code states, in pertinent part, that the 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 FIRST CAUSE FOR DISCIPLINE
7 (Unprofessional Conduct)
8 (Bus. & Prof. Code, §§ 4301, subd. (o), 4060)

9 12. Respondent has subjected his Pharmacy Technician Registration to disciplinary action
10 in that he violated a provision or term of the Code or of the applicable federal and state laws and
11 regulations governing pharmacy when he unlawfully possessed MDMA or "Ecstasy," a controlled
12 substance. (Bus. & Prof. Code, §§ 4301, subd. (o), 4060.) The circumstances are as follows:

13 13. On or about September 20, 2014, a Mountain View Police Department ("MVPD")
14 officer ("Officer 1") was patrolling the parking lot at Shoreline Amphitheater prior to a concert.
15 While Officer 1 was riding around the parking lot on his fully marked police motorcycle, he
16 observed Respondent and his friend sitting in Respondent's vehicle. Respondent was in the
17 driver's seat and his friend was in the passenger seat. Upon making eye contact with Respondent,
18 Officer 1 noticed that Respondent appeared nervous. Officer 1 saw that Respondent was holding a
19 small, teal-colored package on his lap. Officer 1 stopped, dismounted from his motorcycle, and
20 approached the driver's side of Respondent's vehicle. Respondent rolled down the window and
21 Officer 1 asked whether Respondent and his friend were heading into the venue. Another MVPD
22 officer ("Officer 2") approached the vehicle and asked Respondent and his friend where their
23 cigarettes were. Respondent reached into the center console of the vehicle and removed a
24 cigarette package. Officer 1 observed that the cigarette package was teal green, and noticed that
25 the package was open. Officer 1 could also see a clear plastic coin baggie from the opening of the
26 cigarette container, which he recognized as the type of packaging used for narcotics. Officer 1
27 moved the package up and observed numerous white tablets inside.

28 14. Officer 1 asked Respondent to exit the vehicle and asked him what was in the
package. Respondent admitted that the package contained Ecstasy and that the Ecstasy belonged

1 to him. Officer 1 arrested Respondent without incident for violation of Health and Safety Code
2 section 11377, subdivision (a). Officer 1 conducted a further search of Respondent's vehicle and
3 discovered a similar small plastic coin baggie in the center console. Inside the baggie were two
4 green tablets. Based on Officer 1's training and experience, he concluded that the two green
5 tablets appeared similar to Ecstasy.

6 SECOND CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct)
8 (Bus. & Prof. Code, § 4301, subd. (j))

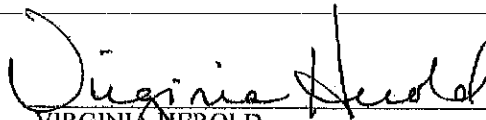
9 15. Respondent has subjected his Pharmacy Technician Registration to disciplinary action
10 in that he violated the statutes of this state regulating controlled substances, specifically Health
11 and Safety Code section 11377, subdivision (a). (Bus. & Prof. Code, § 4301, subd. (j).) The
12 circumstances of Respondent's contact are set forth above in paragraphs 13 and 14.

13 PRAYER

14 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
15 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

- 16 1. Revoking or suspending Pharmacy Technician Registration Number TCH 134481,
17 issued to Dominic Anthony De La Cruz;
- 18 2. Ordering Dominic Anthony De La Cruz to pay the Board of Pharmacy the reasonable
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
20 section 125.3; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 8/10/15



24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

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