

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 DESIREE TULLENERS, State Bar No. 157464  
Deputy Attorney General  
4 California Department of Justice  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2578  
6 Facsimile: (213) 897-2804  
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3338

12 **STEVEN RAYOS**  
15617 Stevens Avenue  
13 Bellflower, CA 90706

**ACCUSATION**

14 Pharmacy Technician Registration  
15 No. TCH 40025

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about November 7, 2001, the Board issued Pharmacy Technician  
23 Registration No. TCH 40025 to Steven Rayos (Respondent). The Pharmacy Technician  
24 Registration will expire on May 31, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board, under the authority of the  
27 following laws. All section references are to the Business and Professions Code unless otherwise  
28 indicated.

1                   4.       Business and Professions Code section 118, subdivision (b) provides that  
2 the suspension, expiration, or forfeiture by operation of law of a license does not deprive the  
3 Board of authority or jurisdiction to institute or continue with disciplinary action against the  
4 license or to order suspension or revocation of the license, during the period within which the  
5 certificate may be renewed, restored, reissued or reinstated.

6                   5.       Section 490 states, in pertinent part:

7                   "(a) In addition to any other action that a board is permitted to take against a  
8 licensee, a board may suspend or revoke a license on the ground that the licensee has been  
9 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties  
10 of the business or profession for which the license was issued.

11                   (b) Notwithstanding any other provision of law, a board may exercise any  
12 authority to discipline a licensee for conviction of a crime that is independent of the authority  
13 granted under subdivision (a) only if the crime is substantially related to the qualifications,  
14 functions, or duties of the business or profession for which the licensee's license was issued.

15                   (c) A conviction within the meaning of this section means a plea or verdict of  
16 guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to  
17 take following the establishment of a conviction may be taken when the time for appeal has  
18 elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting  
19 probation is made suspending the imposition of sentence, irrespective of a subsequent order  
20 under the provisions of Section 1203.4 of the Penal Code."

21                   6.       Section 4060 states, in pertinent part:

22                   "No person shall possess any controlled substance, except that furnished to a  
23 person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
24 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a  
25 certified nurse midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section  
26 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to  
27 Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause  
28 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052."

1                   7.       Section 4300 of the Code provides, in pertinent part, that every license  
2 issued by the Board is subject to discipline, including suspension or revocation.

3                   8.       Section 4301 of the Code states:

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

8                   .....  
9                   (j) The violation of any of the statutes of this state, or any other state, or of the  
10 United States regulating controlled substances and dangerous drugs.

11                   .....  
12                   (l) The conviction of a crime substantially related to the qualifications, functions,  
13 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
15 substances or of a violation of the statutes of this state regulating controlled substances or  
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
18 The board may inquire into the circumstances surrounding the commission of the crime, in order  
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
20 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty  
22 or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
23 meaning of this provision. The board may take action when the time for appeal has elapsed, or  
24 the judgment of conviction has been affirmed on appeal or when an order granting probation is  
25 made suspending the imposition of sentence, irrespective of a subsequent order under Section  
26 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a  
27 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
28 or indictment."

1           9.     Health and Safety Code section 11377, subdivision (a) states:  
2           “Except as authorized by law and as otherwise provided in subdivision (b) or  
3 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the  
4 Business and Professions Code, every person who possesses any controlled substance which is  
5 (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in  
6 subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d),  
7 (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)  
8 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section  
9 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to  
10 practice in this state, shall be punished by imprisonment in a county jail for a period of not more  
11 than one year or in the state prison.”

12           10.    Vehicle Code section 23152, subdivision (b) states:  
13           “It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol  
14 in his or her blood to drive a vehicle.”

15           11.    Section 125.3 of the Code states, in pertinent part, that the Board may  
16 request the administrative law judge to direct a licentiate found to have committed a violation or  
17 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
18 and enforcement of the case.

19           12.    Penal Code section 487 states:  
20           “Grand theft is theft committed in any of the following cases: (a) When the  
21 money, labor, or real or personal property taken is of a value exceeding four hundred dollars  
22 (\$400), except as provided in subdivision (b). “

23           13.    California Code of Regulations, title 16, section 1770, states, in pertinent  
24 part: “For the purpose of denial, suspension, or revocation of a personal or facility license  
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
26 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
28 licensee or registrant to perform the functions authorized by his license or registration in a

1 manner consistent with the public health, safety, or welfare."

2 14. CONTROLLED SUBSTANCES

3 A. "Cannabis" [generic name Marijuana] is a Schedule I (d)(13) controlled  
4 substance as defined by Health and Safety Code section 11054 and is categorized as a "dangerous  
5 drug" pursuant to section 4022 of the Business and Professions Code.

6 B. "Amphetamines" [generic name Methamphetamine] is a Schedule II  
7 controlled substance as defined by Health and Safety Code section 11055(d)(2) and is  
8 categorized as a "dangerous drug" pursuant to section 4022 of the Business and Professions  
9 Code.

10 FIRST CAUSE FOR DISCIPLINE

11 *(Conviction of Substantially Related Crime)*

12 15. Respondent is subject to disciplinary action under sections 4301,  
13 subdivision (l), and 490 of the Code, in conjunction with California Code of Regulations, title  
14 16, section 1770, in that, Respondent was convicted of a crime which is substantially related to  
15 the qualifications, functions or duties of a pharmacy technician, as follows:

16 16. On or about November 9, 2006, Respondent was convicted following his  
17 plea of nolo contendere to one count of violating Vehicle Code section 14601.1(a) [driving with  
18 a suspended license] in the case entitled *The People of the State of California v. Steven Rayos*  
19 (Super Ct. Los Angeles county, 2006, No. 6P02857), a misdemeanor. Respondent was placed on  
20 probation for a period of 36 months and ordered to pay a penalties, fines assessments and  
21 restitution in the amount of \$1,151.

22 17. The circumstances surrounding the conviction are that on or about  
23 February 24, 2006, in the County of Los Angeles, Respondent drove a motor vehicle at a time  
24 when his driving privilege was suspended or revoked.

25 SECOND CAUSE FOR DISCIPLINE

26 *(Unprofessional Conduct - Possession of a Controlled Substance - Marijuana )*

27 18. Respondent is subject to disciplinary action under sections 4300 and 4301,  
28 subdivision (j) and 4060, in that, on or about May 7, 2008, while driving a motor vehicle in the

1 County of Los Angeles, Respondent was found to be unlawfully in possession of a controlled  
2 substance, marijuana, in violation of Vehicle Code section 23222(b).

3 THIRD CAUSE FOR DISCIPLINE

4 *(Unprofessional Conduct - Possession of a Controlled Substance - Methamphetamine)*

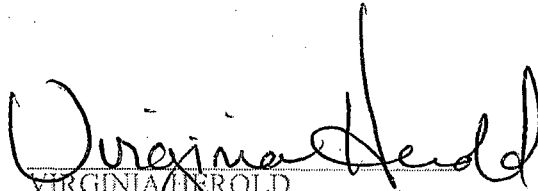
5 19. Respondent is subject to disciplinary action under sections 4300 and 4301,  
6 subdivision (j) and 4060, in that, on or about August 1, 2006, in the County of Los Angeles,  
7 Respondent was found to be unlawfully in possession of a controlled substance,  
8 methamphetamine, in violation of Health and Safety Code section 11377(a).

9 PRAYER

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

- 12 1. Revoking or suspending Pharmacy Technician Registration Number  
13 TCH 40025 issued to Steven Rayos;
- 14 2. Ordering Steven Rayos to pay the Board the reasonable costs of the  
15 investigation and enforcement of this case, pursuant to Business and Professions Code section  
16 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: 11/5/09

19  
20  
21   
22 VIRGINIA HEROLD  
23 Executive Officer  
24 Board of Pharmacy  
25 State of California  
26 Complainant  
27  
28