

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 LESLIE A. BURGERMYER  
Deputy Attorney General  
4 State Bar No. 117576  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5337  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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. 5465

13 **EUGENE DeANGELO WINGFIELD**  
14 **7575 Power Inn Road, Apt. 10**  
**Sacramento, California 95828**

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

15 **Pharmacy Technician Registration No. TCH**  
**108779**

16 Respondent.

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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 December 3, 2010, the Board issued Pharmacy Technician Registration  
23 Number TCH 108779 to Eugene De Angelo Wingfield ("Respondent"). The license was in full  
24 force and effect at all times relevant to the charges brought herein. The registration was cancelled  
25 on February 28, 2014, and expired on June 1, 2014.

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## JURISDICTION

3. Business and Professions Code ("Code") section 4300(a) states, that every license issued may be suspended or revoked.

4. Code section 4011 states:

The board shall administer and enforce this chapter and the Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).

5. 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.

6. Code section 4402 states, in pertinent part:

(e) Any other license issued by the board may be canceled by the board if the license is not renewed within 60 days after its expiration. Any license canceled under this subdivision may not be reissued. Instead, a new application will be required.

## STATUTORY PROVISIONS

7. 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:

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(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

1 the qualifications, functions, and duties of a licensee under this chapter. A plea or  
2 verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a  
3 conviction within the meaning of this provision. The board may take action when the  
4 time for appeal has elapsed, or the judgment of conviction has been affirmed on  
5 appeal or when an order granting probation is made suspending the imposition of  
6 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code  
7 allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
9 or indictment.

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

15 8. Code section 4022 states, in pertinent part:

16 "Dangerous drug" . . . means any drug or device unsafe for self-use in humans or  
17 animals, and includes the following:

18 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing  
19 without prescription," "Rx only," or words of similar import.

20 (c) Any other drug or device that by federal or state law can be lawfully  
21 dispensed only on prescription or furnished pursuant to Section 4006.

22 9. Code section 4060 states, in pertinent part:

23 A person shall not possess any controlled substance, except that furnished to a  
24 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
25 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
26 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.41, a  
27 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to  
28 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
pursuant to Section 4052.1, 4052.2, or 4052.6. . . .

10 10. Health and Safety Code section 11359 prohibits the possession of Marijuana for  
11 sale.

12 11. Health and Safety Code section 11360 prohibits transporting, selling, furnishing,  
13 administering or giving away Marijuana or offering to transport, sell, furnish, administer,  
14 or give away or furnishing Marijuana.

### 25 COST RECOVERY

26 12. Code section 125.3 provides, in pertinent part, that the Bureau may request the  
27 administrative law judge to direct a licentiate found to have committed a violation or violations of  
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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 **DRUG**

4 13. **Marijuana** is a Schedule I controlled substance as designated in Health and Safety  
5 Code section 11054, subdivision (d)(13), and a dangerous drug within the meaning of Code  
6 section 4022.

7 **BACKGROUND INFORMATION**

8 14. On or about February 9, 2014, Respondent went to Deuel Vocational Institution, a State  
9 of California prison, to visit an inmate, his father. At processing for visiting an inmate,  
10 Respondent placed his jacket on the counter to be searched and two orange balloons fell out of the  
11 pocket. Bindles of Marijuana were inside the orange balloons. Upon further search of  
12 Respondent's jacket, a total of 20 orange balloons were found containing a total of 15.21 grams  
13 of Marijuana. Subsequently, Respondent's vehicle was searched and an additional orange  
14 balloon was found containing .7 grams of Marijuana, unused balloons, and a white medication  
15 container with Marijuana residue. Further investigation revealed that Inmate E.W. was involved  
16 in conspiracy to sell drugs inside Deuel Vocational Institution and obtained the drugs through his  
17 visitors to the prison.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Conviction of a Crime)**

20 15. Respondent is subject to discipline pursuant to Code section 4301, subdivision (I), in  
21 that on or about May 13, 2014, in the case of *People v. Eugene DeAngelo Wingfield*, San Joaquin  
22 County Superior Court Case No. SF127046A, Respondent was convicted by the Court on his plea  
23 of nolo contendere to violating Penal Code section 4573 [bringing controlled substances into a  
24 prison], a felony. The circumstances of the crime are set forth in paragraph 14, above,  
25 incorporated herein by reference.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Violation of State Laws Regulating Controlled Substances)**

3 16. Respondent is subject to discipline pursuant to Code section 4301, subdivision (j), on  
4 the grounds of unprofessional conduct, in that on or about February 9, 2014, while a licensed  
5 pharmacy technician, Respondent violated Health & Safety Code section 11359 (possession of  
6 Marijuana for sale), and Health and Safety Code section 11360, subdivision (a), [transportation of  
7 Marijuana], as more particularly set forth above in paragraph 14, above, incorporated herein by  
8 reference.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

11 17. Respondent is subject to discipline pursuant to Code section 4301, subdivision (f), on  
12 the grounds of unprofessional conduct, in that he committed acts involving dishonesty, fraud,  
13 deceit, or corruption, as more particularly set forth above in paragraph 14, above, incorporated  
14 herein by reference.

15 **FOURTH CAUSE FOR DENIAL**

16 **(Unprofessional Conduct - Violation of the Pharmacy Law)**

17 18. Respondent is subject to discipline pursuant to Code section 4301, subdivision (o), on  
18 the grounds of unprofessional conduct, in that on or about February 9, 2014, Respondent  
19 possessed a controlled substance, Marijuana, without a lawful prescription, in violation of Code  
20 section 4060, as more particularly set forth above in paragraph 14, above, incorporated herein by  
21 reference.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 108779, issued  
26 to Eugene DeAngelo Wingfield;  
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1        2. Ordering Eugene DeAngelo Wingfield to pay the Board of Pharmacy the reasonable costs  
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
3 section 125.3; and,

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

5  
6 DATED: \_\_\_\_\_

9/9/15

*Virginia Herold*

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

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