

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues
Against:

Case No. 4377

12 **JASON WESLEY LEEPER**

STATEMENT OF ISSUES

13 **Pharmacy Technician Registration**
14 **Applicant**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. In January, 2012, the Board of Pharmacy, Department of Consumer Affairs received
22 an application for Pharmacy Technician Registration from Jason Wesley Leeper (Respondent).

23 On or about October 10, 2011, Jason Wesley Leeper certified under penalty of perjury to the
24 truthfulness of all statements, answers, and representations in the application. The Board denied
25 the application on June 21, 2012.

26 ///

27 ///

28 ///

1 **JURISDICTION**

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

5 4. Section 4300, subdivision (c) of the Code states in pertinent part:

6 “(c) The board may refuse a license to any applicant guilty of unprofessional conduct...”

7 5. Section 4301 of the Code states:

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

11

12 “(h) The administering to oneself, of any controlled substance, or the use of any dangerous
13 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
14 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
15 to the extent that the use impairs the ability of the person to conduct with safety to the public the
16 practice authorized by the license.”

17

18 “(k) The conviction of more than one misdemeanor or any felony involving the use,
19 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
20 combination of those substances.”

21 “(l) The conviction of a crime substantially related to the qualifications, functions, and
22 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
24 substances or of a violation of the statutes of this state regulating controlled substances or
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
27 The board may inquire into the circumstances surrounding the commission of the crime, in order
28 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 6. Section 480 of the Code states:

2 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
3 one of the following:

4 "(1) Been convicted of a crime. A conviction within the meaning of this section
5 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action
6 that a board is permitted to take following the establishment of a conviction may be taken when
7 the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or
8 when an order granting probation is made suspending the imposition of sentence, irrespective of a
9 subsequent order under the provisions of Section 1203.4 of the Penal Code.

10

11 "(3) (A) Done any act that if done by a licentiate of the business or profession in
12 question, would be grounds for suspension or revocation of license.

13 (c) A board may deny a license regulated by this code on the ground that the applicant
14 knowingly made a false statement of fact required to be revealed in the application for the license.

15 **FIRST CAUSE FOR DENIAL OF APPLICATION**

16 **(Criminal Convictions)**

17 7. Respondent's application is subject to denial for unprofessional conduct under section
18 4300, subdivision (c), as defined in 4301, subdivision (k) and (l), and 480, subdivision (a),
19 paragraph (1) in that Respondent has been convicted of three (3) misdemeanors involving the use,
20 consumption, or self-administration of alcohol as follows:

21 a. On or about January 21, 1997, in a criminal proceeding entitled *People v. Jason*
22 *Wesley Leeper*, in Sacramento County Superior Court, Case Number 97T00223, Respondent was
23 convicted by plea of nolo contendere of violating Vehicle Code section 23152, subdivision (a),
24 (driving while under the influence of alcohol), a misdemeanor. The circumstances of the crime
25 are that on or about January 15, 1997, Respondent did willfully and unlawfully, while under the
26 influence of an alcoholic beverage, drive a vehicle with a blood alcohol content of 0.21 percent.

27 b. On or about September 14, 2001, in a criminal proceeding entitled *People v.*
28 *Jason Wesley Leeper*, in El Dorado County Superior Court, Case Number P01CRM0838,
Respondent was convicted by plea of nolo contendere of violating Vehicle Code section 23152,
subdivision (a), (driving while under the influence of alcohol), a misdemeanor. The
circumstances of the crime are that on or about May 13, 2001, Respondent did unlawfully, while

1 under the influence of an alcoholic beverage or a drug or under their combined influence, drive a
2 vehicle, with a prior conviction on January 21, 1997, for driving under the influence of alcohol.

3 c. On or about May 14, 2008, in a criminal proceeding entitled *People v. Jason*
4 *Wesley Leeper*, in Yolo County Superior Court, Case Number 08-1292, Respondent was
5 convicted by plea of nolo contendere of violating Vehicle Code section 23152, subdivision (b),
6 (driving while under the influence of alcohol with blood alcohol level greater than 0.08% by
7 volume), a misdemeanor. The circumstances of the crime are that on or about February 3, 2008,
8 Respondent did willfully and unlawfully drive a vehicle while having 0.08 percent or more, by
9 weight, of alcohol in Respondent's blood. , while under the influence of an alcoholic beverage or
10 a drug or under their combined influence, drive a vehicle with a blood alcohol content of 0.22/
11 0.23 percent.

12 **SECOND CAUSE FOR DENIAL OF APPLICATION**

13 **(Use of Alcohol to an Extent or in a Manner Dangerous to Self or Others)**

14 8. Respondent's application is subject to denial under section 480, subdivision (a),
15 paragraph (3), for committing acts which if done by a licensee would subject him to discipline as
16 defined by section 4301, subdivision (h), unprofessional conduct, in that Respondent used alcohol
17 to an extent or in a manner dangerous to himself or others by driving a vehicle upon a public
18 roadway while under the influence of alcohol on three (3) occasions as set forth in paragraph 7,
19 above.

20 **THIRD CAUSE FOR DENIAL OF APPLICATION**

21 **(Knowingly Making a False Statement in a License Application)**

22 9. Respondent's application is subject to denial under section 480, subdivision (c),
23 paragraph (3), on the grounds that Respondent knowingly made a false statement of fact required
24 to be revealed in the application for the license in that he failed to disclose the 1997 and 2001
25 DUI convictions in his application for licensure, as set forth in paragraph 7, above.

26 //

27 //

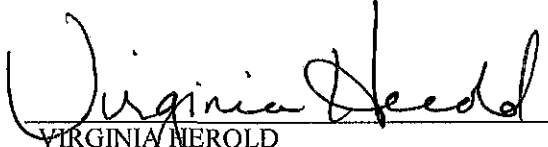
28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

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

1. Denying the application of Jason Wesley Leeper for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 1/31/14 

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

SA2012107219
Leeper revised SOI.docx