

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

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

In the Matter of the Accusation Against:

**WILLIAM HENRY KOCHANOWSKI**  
9680 Paseo Montril  
San Diego, CA 92129

**Pharmacy Technician Registration No. TCH 117676**

Respondent.

Case No. 4927

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On February 19, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4927 against William Henry Kochanowski (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On March 1, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 117676 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4927 and will expire on March 31, 2014, unless renewed. This lapse in licensure, however, pursuant to Business and Professions Code section 4300.1 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

///

1           3.       On March 10, 2014, Respondent was served by Certified and First Class Mail  
2 copies of the Accusation No. 4927, Statement to Respondent, Notice of Defense, Request for  
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)  
4 at Respondent's address of record which, pursuant to Business and Professions Code section  
5 4100, is required to be reported and maintained with the Board. Respondent's address of record  
6 was and is 9680 Paseo Montril, San Diego, CA 92129.

7           4.       Service of the Accusation was effective as a matter of law under the provisions of  
8 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

9           5.       On March 20, 2014, the aforementioned documents sent by regular mail were  
10 returned by the U.S. Postal Service marked "Not at this Address, Return to Sender, Forwarding  
11 Address Unknown." On April 17, 2014, the aforementioned documents sent by certified mail  
12 were returned by the U.S. Postal Service marked "Attempted Not Known." The address on the  
13 documents was the same as the address on file with the Board. Respondent failed to maintain an  
14 updated address with the Board and the Board has made attempts to serve the Respondent at the  
15 address on file. Respondent has not made himself available for service and therefore, has not  
16 availed himself of his right to file a notice of defense and appear at hearing.

17           6.       Government Code section 11506 states, in pertinent part:

18                   (c) The respondent shall be entitled to a hearing on the merits if the  
19 respondent files a notice of defense, and the notice shall be deemed a specific  
20 denial of all parts of the accusation not expressly admitted. Failure to file a notice  
21 of defense shall constitute a waiver of respondent's right to a hearing, but the  
22 agency in its discretion may nevertheless grant a hearing.

23           7.       Respondent failed to file a Notice of Defense within 15 days after service upon  
24 him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
25 No. 4927.

26           8.       California Government Code section 11520 states, in pertinent part:

27                   (a) If the respondent either fails to file a notice of defense or to appear at  
28 the hearing, the agency may take action based upon the respondent's express  
admissions or upon other evidence and affidavits may be used as evidence  
without any notice to respondent.



1                   d.     Respondent is subject to disciplinary action under Code section 4301,  
2 subdivision (p) in that Respondent was convicted of possession of more than 28.5 grams of  
3 Marijuana, conduct that would have warranted the denial of a pharmacy technician registration  
4 under Code section 480, subdivision (a)(1).

5     ///

6     ///

7     ///

8     ///

9     ///

10    ///

11    ///

12    ///

13    ///

14    ///

15    ///

16    ///

17    ///

18    ///

19    ///

20    ///

21    ///

22    ///

23    ///

24    ///

25    ///

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

**ORDER**

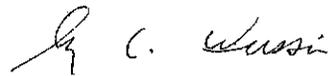
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 117676, heretofore issued to Respondent William Henry Kochanowski, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This decision shall become effective on May 30, 2014.

It is so ORDERED on April 30, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STAN C. WEISSER  
Board President

70853225.DOC  
DOJ Matter ID:SD2013705826

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

---

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
4 State Bar No. 132645  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2105  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4927

12 **WILLIAM HENRY KOCHANOWSKI**  
13 **9680 Paseo Montril**  
**San Diego, CA 92129**

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

14 **Pharmacy Technician Registration No. TCH 117676**

15 Respondent.

16  
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, Department of Consumer Affairs.

21 2. On March 1, 2012, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 117676 to William Henry Kochanowski (Respondent). The Pharmacy  
23 Technician Registration was in full force and effect at all times relevant to the charges brought  
24 herein and will expire on March 31, 2014, unless renewed.

25 **JURISDICTION**

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



1 the rehabilitation of a person when considering the denial of a license under  
2 subdivision (a) of Section 482.

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

6 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
7 revoke a license on the ground that the licensee has been convicted of a crime substantially  
8 related to the qualifications, functions, or duties of the business or profession for which the  
9 license was issued.

10 9. Section 493 of the Code states:

11 Notwithstanding any other provision of law, in a proceeding conducted by  
12 a board within the department pursuant to law to deny an application for a license  
13 or to suspend or revoke a license or otherwise take disciplinary action against a  
14 person who holds a license, upon the ground that the applicant or the licensee has  
15 been convicted of a crime substantially related to the qualifications, functions, and  
16 duties of the licensee in question, the record of conviction of the crime shall be  
17 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
18 and the board may inquire into the circumstances surrounding the commission of  
19 the crime in order to fix the degree of discipline or to determine if the conviction  
20 is substantially related to the qualifications, functions, and duties of the licensee in  
21 question.

22 As used in this section, 'license' includes 'certificate,' 'permit,'  
23 'authority,' and 'registration.'

24 10. Section 4022 of the Code states

25 "Dangerous drug" or "dangerous device" means any drug or device unsafe  
26 for self-use in humans or animals, and includes the following:

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

(b) Any device that bears the statement: "Caution: federal law restricts  
this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of  
similar import, the blank to be filled in with the designation of the practitioner  
licensed to use or order use of the device.

(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.

11. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to  
a person upon the prescription of a physician, dentist, podiatrist, optometrist,

1 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
2 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
3 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant  
4 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or  
5 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause  
6 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This  
7 section shall not apply to the possession of any controlled substance by a  
8 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
9 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
10 practitioner, or physician assistant, when in stock in containers correctly labeled  
11 with the name and address of the supplier or producer.

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

15 12. Section 4301 of the Code states:

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

20 . . . .  
21 (f) The commission of any act involving moral turpitude, dishonesty,  
22 fraud, deceit, or corruption, whether the act is committed in the course of relations  
23 as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

24 . . . .  
25 (j) The violation of any of the statutes of this state, or any other state, or of  
26 the United States regulating controlled substances and dangerous drugs.

27 . . . .  
28 (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.

29 . . . .  
30 (p) Actions or conduct that would have warranted denial of a license.

31 13. Health & Safety Code section 11357, subdivision (c) states:

32 Except as authorized by law, every person who possesses more than 28.5  
33 grams of Marijuana, other than concentrated cannabis, shall be punished by  
34 imprisonment in a county jail for a period of not more than six months or by a

35 ///

1 fine of not more than five hundred dollars (\$500), or by both such fine and  
2 imprisonment.

3 **REGULATORY PROVISIONS**

4 14. California Code of Regulations, title 16, section 1769, states:

5 . . . .

6 (b) When considering the suspension or revocation of a facility or a  
7 personal license on the ground that the licensee or the registrant has been  
8 convicted of a crime, the board, in evaluating the rehabilitation of such person and  
9 his present eligibility for a license will consider the following criteria:

10 (1) Nature and severity of the act(s) or offense(s).

11 (2) Total criminal record.

12 (3) The time that has elapsed since commission of the act(s) or  
13 offense(s).

14 (4) Whether the licensee has complied with all terms of parole,  
15 probation, restitution or any other sanctions lawfully imposed against the licensee.

16 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

25 **COST RECOVERY**

26 16. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
27 the administrative law judge to direct a licentiate found to have committed a violation or  
28 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.

///

///

1 **DRUG**

2 17. Cannabinoids (Marijuana) are dangerous drugs pursuant to section 4022 and are  
3 Schedule I controlled substances as designated by Health and Safety Code section 11054,  
4 subdivision (d)(13).

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct – Commission of Acts Involving Moral Turpitude, Dishonesty,  
7 Fraud, Deceit, and Corruption)**

8 18. Respondent is subject to disciplinary action under Code section 4301, subdivision  
9 (f), in that on October 31, 2012, Respondent unlawfully planted, cultivated, and possessed more  
10 than 28.5 grams of Marijuana for sale, an act involving moral turpitude, deceit, and corruption.

11 The circumstances are as follows:

12 a. On October 31, 2012, deputies from the Lemon Grove Station of the San  
13 Diego County Sheriff's Department checked on the welfare of a suicidal subject, Respondent, at  
14 his residence in Spring Valley, California. While inside Respondent's residence, the deputies  
15 smelled Marijuana emitting from inside the house. Respondent and his two roommates admitted  
16 to growing Marijuana and consented to a search. The deputies found Marijuana plants grown in  
17 an elaborate set-up in the garage and in two basement rooms. Respondent admitted to growing  
18 Marijuana for personal use. Respondent was evaluated at a San Diego County Mental Health  
19 Center and thereafter, booked into the San Diego County Central Jail.

20 b. As a result of the discovery of the Marijuana at his residence, a criminal  
21 action was filed against Respondent. On June 5, 2013, in a criminal proceeding entitled *The*  
22 *People of the State of California vs. William Henry Kochanowski*, in San Diego County Superior  
23 Court, Central Division, Central Courthouse Case Number CD244205, Respondent pled guilty to  
24 violating Health and Safety Code (HSC) section 11357 subdivision (c), possession of more than  
25 28.5 grams of Marijuana, a misdemeanor, and deferred entry of judgment was granted under PC  
26 1000. Charges for violation of HSC sections 11358, cultivating Marijuana, and 11359, possession  
27 of Marijuana for sale, felonies, were dismissed pursuant to a plea bargain.

28 ///

1 c. As a result of his guilty plea, on June 5, 2013, Respondent was required to  
2 enroll by July 5, 2013 and complete an 18-month diversion program and pay a fine, which was  
3 deemed satisfied by custody.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Violation of Drug Laws)**

6 19. Respondent is subject to disciplinary action under Code section 4301, subdivision  
7 (j) in that Respondent violated Code section 4060 and HSC section 11357 subdivision (e),  
8 statutes of the State of California regulating controlled substances and dangerous drugs, as  
9 detailed in paragraph 18, above.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct – Violation of Pharmacy Laws)**

12 20. Respondent is subject to disciplinary action under Code section 4301, subdivision  
13 (o), in that Respondent possessed Marijuana without a physician's recommendation in violation  
14 of Code section 4060, as detailed in paragraph 18, above, in violation of pharmacy law.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Conduct That Would Have Warranted Denial of a License)**

17 21. Respondent is subject to disciplinary action under Code section 4301, subdivision  
18 (p) in that Respondent was convicted of possession of more than 28.5 grams of Marijuana,  
19 conduct that would have warranted the denial of a pharmacy technician registration under Code  
20 section 480, subdivision (a)(1), as detailed in paragraph 18, above.

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacy Technician Registration Number TCH  
25 117676, issued to William Henry Kochanowski;

26 ///

27 ///

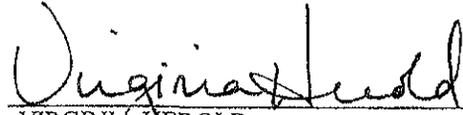
28 ///

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

2. Ordering William Henry Kochanowski to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 2/19/14



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

SD2013705826  
70784931.doc