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

In the Matter of the Accusation Against:

Case No. 5465

EUGENE DE ANGELO WINGFIELD 7575 Power Inn Road, Apt. 10 Sacramento, CA 95828

Pharmacy Technician Registration No. TCH 108779

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 8, 2016.

It is so ORDERED on December 9, 2015.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

By

Amy Gutierrez, Pharm.D.

Board President

1	KAMALA D. HARRIS		
2	Attorney General of California KENT D. HARRIS	ORIGINAL	
3	Supervising Deputy Attorney General LESLIE A. BURGERMYER		
4	Deputy Attorney General State Bar No. 117576		
5	1300 I Street, Suite 125 P.O. Box 944255		
6	Sacramento, CA 94244-2550 Telephone: (916) 324-5337	·	
7	Facsimile: (916) 327-8643 E-mail: Leslie.Burgermyer@doj.ca.gov		
8	Attorneys for Complainant		
9	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against:	Case No. 5465	
12	EUGENE DE ANGELO WINGFIELD	STIPULATED SURRENDER OF	
13	7575 Power Inn Road, Apt. 10 Sacramento, California 95828	LICENSE AND ORDER	
14	Pharmacy Technician Registration		
15	No. TCH 108779	•	
16	Respondent.		
17	,		
18	IT IS HEREBY STIPULATED AND A	AGREED by and between the parties to the above	
19	entitled proceedings that the following matters are true:		
20	PARTTES		
21	1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy		
22	("Board"), Department of Consumer Affairs. She brought this action solely in her official		
23	capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of		
24	California, by Leslie A. Burgermyer, Deputy Attorney General.		
25	2. Eugene De Angelo Wingfield ("Re	espondent") is representing himself in this	
26	proceeding and has chosen not to exercise his i	right to be represented by counsel.	
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3. On or about December 3, 2010, the Board issued Pharmacy Technician Registration No. TCH 108779 to Respondent. The Pharmacy Technician Registration expired on February 28, 2014, and was canceled on June 1, 2014, because it was not timely renewed.

JURISDICTION

- 4. Accusation No. 5465 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 23, 2015. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 5465 is attached hereto, marked Exhibit A, and incorporated by reference.
- 5. Accusation No. 5465 is hereby amended on page 1, paragraph 2, lines 24-25, as follows:
- a. Delete: "The registration was cancelled on February 28, 2014, and expired on June 1, 2014;" and
- b. Substitute: "The registration expired on February 28, 2014, without renewal, and was canceled on June 1, 2014, pursuant to Business and Professions Code section 4402, subdivision (e)."

ADVISEMENT AND WAIVERS

- 6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 5465. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.
- 7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 9. Respondent admits the truth of each and every charge and allegation in Accusation No. 5465, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician Registration No. TCH 108779 for the Board's formal acceptance.
- 10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacy Technician Registration without further process.

CONTINGENCY

- 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 12. The parties understand and agree that Portable Document Format ("PDF") and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.
- 13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 108779, issued to Respondent Eugene De Angelo Wingfield ("Respondent") is surrendered and accepted by the Board of Pharmacy.

- 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.
- 2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California as of the effective date of the Board's Decision and Order.
- 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.
- 4. If he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 5465 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.
- 5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$2,081.50 prior to issuance of a new or reinstated license.
- 6. If Respondent should ever apply or re-apply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 5465 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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1	7. Respondent is eligible to apply for a new license as of three (3) years from the date of		
2	the Board's Decision and Order in this matter.		
3	<u>ACCEPTANCE</u>		
4	I have carefully read the Stipulated Surrender of License and Order. I understand the		
5	stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this		
6	Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to		
7	be bound by the Decision and Order of the Board of Pharmacy.		
8 9 10 11	DATED: 10/19/15 Coseme Jedny low Come EUGENE DE ANGELO WINGFIELD Respondent		
12	<u>ENDORSEMENT</u>		
13	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted		
14	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.		
15	Dated: 10-29-15 Respectfully submitted,		
16	KAMALA D. HARRIS Attorney General of California		
17	KENT D. HARRIS Supervising Deputy Attorney General		
18	Loslio a D.		
19	LESLIE A, BURGERMYER		
20	Deputy Attorney General Attorneys for Complainant		
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Exhibit A

Accusation No. 5465

`1	KAMALA D. HARRIS	
2	Attorney General of California KENT D. HARRIS	
3	Supervising Deputy Attorney General LESLIE A. BURGERMYER	
4	Deputy Attorney General State Bar No. 117576	
5	1300 I Street, Suite 125 P.O. Box 944255	
6	Sacramento, CA 94244-2550 Telephone: (916) 324-5337	
7	Facsimile: (916) 327-8643 Attorneys for Complainant	
8	BEFORE THE	
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
10	STATE OF C	CALIFORNIA
11		
12	In the Matter of the Accusation Against:	Case No. 5465
13	EUGENE DeANGELO WINGFIELD 7575 Power Inn Road, Apt. 10	
14	Sacramento, California 95828	ACCUSATION
15	Pharmacy Technician Registration No. TCH 108779	·
16	Respondent.	,
17		
18	Virginia Herold ("Complainant") alleges:	
19	PARTIES	
20		olely 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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(BUGENE DOANGELO WINGFIELD) ACCUSATION

 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.
- (1) 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

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.

- (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....
- 8. Code section 4022 states, in pertinent part:

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

- (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
- (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.
- 9. Code section 4060 states, in pertinent part:

A person shall not 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 2746.41, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to 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. Health and Safety Code section 11359 prohibits the possession of Marijuana for sale.
- 11. Health and Safety Code section 11360 prohibits transporting, selling, furnishing, administering or giving away Marijuana or offering to transport, sell, furnish, administer, or give away or furnishing Marijuana.

COST RECOVERY

12. Code section 125.3 provides, in pertinent part, that the Bureau may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUG

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

BACKGROUND INFORMATION

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

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

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

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SECOND CAUSE FOR DISCIPLINE

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

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

THIRD CAUSE FOR DISCIPLINE

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

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

FOURTH CAUSE FOR DENIAL

(Unprofessional Conduct - Violation of the Pharmacy Law)

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

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. Revoking or suspending Pharmacy Technician Registration Number TCH 108779, issued to Eugene DeAngelo Wingfield;

1	2. Ordering Eugene DeAngelo Wingfield to pay the Board of Pharmacy the reasonable cost			
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 Juginia Xecold			
7	VIRGÎNIA MEROLD Executive Officer			
8	Board of Pharmacy Department of Consumer Affairs			
9	State of California Complainant			
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