

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 SYDNEY M. MEHRINGER
Deputy Attorney General
4 State Bar No. 245282
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2537
6 Facsimile: (213) 897-2804
Sydney.Mehring@doj.ca.gov

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5034

12 **JOSHUA CLAYTON LOCKWOOD**

A C C U S A T I O N

13 14025 Leahy Ave.
14 Bellflower, CA 90706

15 Pharmacy Technician Registration No. TCH
116106

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about October 17, 2011, the Board issued Pharmacy Technician Registration
23 No. TCH 116106 to Joshua Clayton Lockwood ("Respondent"). The Pharmacy Technician
24 Registration will expire on September 30, 2015, unless renewed.

25 **JURISDICTION**

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

1 to the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license.

3
4 "(j) The violation of any of the statutes of this state, or any other state, or of the United
5 States regulating controlled substances and dangerous drugs.

6
7 "(l) The conviction of a crime substantially related to the qualifications, functions, and
8 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
9 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
10 substances or of a violation of the statutes of this state regulating controlled substances or
11 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
12 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
13 The board may inquire into the circumstances surrounding the commission of the crime, in order
14 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or
15 dangerous drugs, to determine if the conviction is of an offense substantially related to the
16 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
17 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
18 of this provision. The board may take action when the time for appeal has elapsed, or the
19 judgment of conviction has been affirmed on appeal or when an order granting probation is made
20 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
21 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
22 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
23 indictment.

24
25 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
26 violation of or conspiring to violate any provision or term of this chapter or of the applicable
27 federal and state laws and regulations governing pharmacy, including regulations established by
28 the board or by any other state or federal regulatory agency. . . ."

1 8. Health and Safety Code section 11360 states, in pertinent part:

2 "(b) Except as authorized by law, every person who gives away, offers to give away,
3 transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana,
4 other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of
5 not more than one hundred dollars (\$100). . . ."

6 9. United States Code, title 21, section 844 states, in pertinent part:

7 "(a) Unlawful acts; penalties. It shall be unlawful for any person knowingly or intentionally
8 to possess a controlled substance unless such substance was obtained directly, or pursuant to a
9 valid prescription or order, from a practitioner, while acting in the course of his professional
10 practice, or except as otherwise authorized by this title or title III. It shall be unlawful for any
11 person knowingly or intentionally to possess any list I chemical obtained pursuant to or under
12 authority of a registration issued to that person under section 303 of this title [21 USCS § 823] or
13 section 1008 of title III [21 USCS § 958] if that registration has been revoked or suspended, if that
14 registration has expired, or if the registrant has ceased to do business in the manner contemplated
15 by his registration. . . ."

16 **REGULATORY PROVISIONS**

17 10. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

24 **COST RECOVERY**

25 11. Section 125.3 states, in pertinent part, that the Board may request the administrative
26 law judge to direct a licensee found to have committed a violation or violations of the licensing
27 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
28 case.

1 further admitted to occasionally selling marijuana and he acknowledged that he was on his way to
2 sell marijuana to a friend.

3 16. On or about August 1, 2013, after pleading nolo contendere, Respondent was
4 convicted of one misdemeanor count of violating Vehicle Code section 23103 [reckless driving]
5 in the criminal proceeding entitled *The People of the State of California v. Joshua Clayton*
6 *Lockwood* (Super. Ct. Los Angeles County, 2013, No. 3LT00163). The Court sentenced
7 Respondent to serve 10 days in Los Angeles County Jail and placed him on 36 months probation,
8 with terms and conditions including enrolling in an alcohol and drug education program.

9 (a) The circumstances surrounding the conviction are that on or about August 19,
10 2012, a Long Beach Police Department officer responded to a call requesting assistance with an
11 intoxicated person. Respondent was found passed out in the driver's seat of his vehicle while the
12 vehicle was still on and in the middle of the street. Respondent was removed from the vehicle
13 and transported to the hospital where the officer attempted to speak with Respondent, but he was
14 incoherent and in an altered state. It was later determined that Respondent was under the
15 influence of marijuana and morphine.

16 SECOND CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct: Self-Administration/Use of Controlled Substances)

18 17. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),
19 on the grounds of unprofessional conduct in that or on about August 19, 2012 and February 2,
20 2013, Respondent self-administered and/or used controlled substances to wit: marijuana and
21 morphine, to the extent that the self-administration/use was dangerous to himself, others, or the
22 public. Complainant refers to, and by this reference incorporates, the allegations set forth above
23 in Paragraph 15, subparagraph (a) and Paragraph 16, subparagraph (a), inclusive, as though fully
24 set forth herein.

25 THIRD CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct: Violating Drug Statutes)

27 18. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
28 on the grounds of unprofessional conduct in that Respondent violated state and federal drug

1 statutes regulating controlled substances and dangerous drugs. Specifically, Respondent violated
2 Health and Safety Code section 11360, subdivision (b) by furnishing marijuana and Respondent
3 violated United States Code, title 21, section 844 by possessing Marijuana. Complainant refers
4 to, and by reference incorporates, the allegations set forth above in Paragraph 15, subparagraph (a)
5 and Paragraph 16, subparagraph (a), inclusive, as though fully set forth herein.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct: Violation of Licensing Chapter)**

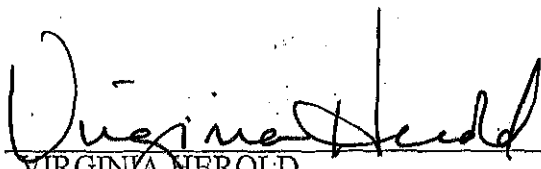
8 19. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
9 in conjunction with Code section 4060, on the grounds of unprofessional conduct in that
10 Respondent illegally possessed a controlled substance to wit: marijuana. Complainant refers to,
11 and by this reference incorporates, the allegations set forth above in Paragraph 15, subparagraph
12 (a) and Paragraph 16, subparagraph (a), inclusive, as though fully set forth herein.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician Registration No. TCH 116106, issued
17 to Joshua Clayton Lockwood;
- 18 2. Ordering Joshua Clayton Lockwood to pay the Board the reasonable costs of the
19 investigation and enforcement of this case, pursuant to section 125.3; and
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 4/8/14


23 VIRGINIA NEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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