

1 XAVIER BECERRA  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
4 State Bar No. 132645  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9409  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11  
12 In the Matter of the Accusation Against:

Case No. 6144

13 **JONATHAN MOSES TRONCOSO**  
2415 Deodar Street  
14 Santa Ana, CA 92705

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

15 **Pharmacy Technician Registration No.**  
16 **TCH 123607**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about May 29, 2012, the Board issued Pharmacy Technician Registration  
24 Number TCH 123607 to Jonathan Moses Troncoso (Respondent). The Pharmacy Technician  
25 Registration was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on August 31, 2017, unless renewed.

27 ///

28 ///

1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a) of the Code states, "Every license issued may be  
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
9 operation of law or by order or decision of the board or a court of law, the placement of a  
10 license on a retired status, or the voluntary surrender of a license by a licensee shall not  
11 deprive the board of jurisdiction to commence or proceed with any investigation of, or  
12 action or disciplinary proceeding against, the licensee or to render a decision suspending  
13 or revoking the license.

14 **STATUTORY PROVISIONS**

15 6. Section 482 of the Code states:

16 Each board under the provisions of this code shall develop criteria to evaluate the  
17 rehabilitation of a person when:

18 (a) Considering the denial of a license by the board under Section 480; or

19 (b) Considering suspension or revocation of a license under Section 490.

20 Each board shall take into account all competent evidence of rehabilitation  
21 furnished by the applicant or licensee.

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

26 8. Section 493 of the Code states:

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

1 functions, and duties of the licensee in question.

2 As used in this section, "license" includes "certificate," "permit," "authority," and  
3 "registration."

4 9. Section 4301 of the Code states:

5 The board shall take action against any holder of a license who is guilty of  
6 unprofessional conduct or whose license has been issued by mistake. Unprofessional  
7 conduct shall include, but is not limited to, any of the following:

8 ...

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

12 ...

13 (l) The conviction of a crime substantially related to the qualifications, functions,  
14 and duties of a licensee under this chapter. The record of conviction of a violation of  
15 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code  
16 regulating controlled substances or of a violation of the statutes of this state regulating  
17 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional  
18 conduct. In all other cases, the record of conviction shall be conclusive evidence only of  
19 the fact that the conviction occurred. The board may inquire into the circumstances  
20 surrounding the commission of the crime, in order to fix the degree of discipline or, in  
21 the case of a conviction not involving controlled substances or dangerous drugs, to  
22 determine if the conviction is of an offense substantially related to the qualifications,  
23 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a  
24 conviction following a plea of nolo contendere is deemed to be a conviction within the  
25 meaning of this provision. The board may take action when the time for appeal has  
26 elapsed, or the judgment of conviction has been affirmed on appeal or when an order  
27 granting probation is made suspending the imposition of sentence, irrespective of a  
28 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. . .

## 21 REGULATORY PROVISIONS

22 10. California Code of Regulations, title 16, section 1769, subdivision (c) states:

23 ...

24 When considering the suspension or revocation of a facility or a personal license  
25 on the ground that the licensee or the registrant has been convicted of a crime, the board,  
26 in evaluating the rehabilitation of such person and his present eligibility for a license will  
27 consider the following criteria:

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

(2) Total criminal record.

- 1 (3) The time that has elapsed since commission of the act(s) or offense(s).
- 2 (4) Whether the licensee has complied with all terms of parole, probation,  
3 restitution or any other sanctions lawfully imposed against the licensee.
- 4 (5) Evidence, if any, of rehabilitation submitted by the licensee.

5 11. California Code of Regulations, title 16, section 1770 states:

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

10 **COSTS**

11 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
12 administrative law judge to direct a licentiate found to have committed a violation or violations of  
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
15 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
16 included in a stipulated settlement.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(March 27, 2017 Criminal Conviction for Having a Concealed, Loaded,**  
19 **Unregistered Firearm in Vehicle on February 20, 2016)**

20 13. Respondent has subjected his registration to disciplinary action under sections 490  
21 and 4301, subdivision (l) of the Code in that he was convicted of a crime that is substantially  
22 related to the qualifications, duties, and functions of a pharmacy technician. The circumstances  
23 are as follows:

24 a. On or about March 27, 2017, in a criminal proceeding entitled *People of the*  
25 *State of California v. Jonathan Moses Troncoso*, in Orange County Superior Court, case number  
26 16CF0479, Respondent was convicted on his plea of guilty of violating Penal Code section  
27 25400, subdivisions (a)(1) and (c)(6), having a concealed, loaded, unregistered firearm in a  
28 vehicle, a felony. Respondent further admitted to a felony enhancement in that he committed the

1 offense of Penal Code section 25400, for the benefit of, at the direction of, and in association with  
2 a criminal street gang. Additional counts of violating Penal Code section 186.22, subdivision (d)  
3 – 594, subdivisions (a)/(b)(2)(A), gang-related vandalism under \$400; and Penal Code section  
4 594.2, subdivision (a), possession of graffiti tools, were dismissed pursuant to the plea agreement.

5           b. As a result of the conviction, Respondent was ordered to serve 180 days in  
6 county jail, with pre-custody credit for 4 days for time served, placed on supervised probation for  
7 3 years, and ordered to register as a gang member pursuant to Penal Code section 186.30.  
8 Respondent was further ordered to pay fines, fees and restitution, and to comply with additional  
9 gang terms and conditions of probation.

10           c. The facts that led to the conviction are that on February 20, 2016, at  
11 approximately 10:53 in the evening, officers assigned to the gang unit with the Orange Police  
12 Department (OPD) were on patrol when they observed a vehicle with a malfunctioning center  
13 brake light, and conducted an enforcement stop. Before exiting the vehicle, the OPD officer  
14 activated his spotlight to illuminate the vehicle's interior, and observed one of the occupants  
15 reaching towards the floorboard. Upon making contact with the occupants of the vehicle, the OPD  
16 officer recognized one of the males to be a documented gang member. Based off of the OPD  
17 officer's experience, the officer knew that the occupants were driving through an area of the City  
18 of Orange claimed by a rival street gang. The OPD officer observed an open can of beer in the  
19 center cup holder, as well as a spray can that appeared to have been recently used on the  
20 floorboard in plain view. During questioning, the OPD officers searched the occupants of the  
21 vehicle, and obtained verbal consent to search the vehicle. During the search of the vehicle, the  
22 OPD officers located two handguns with loaded magazines, and chambered rounds. One of the  
23 handguns, located in the seat pocket directly in front of where Respondent was sitting, was unable  
24 to be identified due to the serial number being scratched off and tampered with. The OPD officers  
25 also collected cell phones, marijuana, pepper spray, prescription drugs, a stun-gun, and spray paint  
26 cans from inside the vehicle. All five occupants of the vehicle were arrested on various charges.

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Act Involving Moral Turpitude)**

3 14. Respondent has subjected his registration to disciplinary action under section 4301,  
4 subdivision (f) of the Code in that on February 20, 2016, he committed an act of moral turpitude  
5 when he was arrested on charges of gun possession, and participation in a criminal street gang, as  
6 described in paragraph 13, above, and incorporated herein by reference.

7 **PRAYER**

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

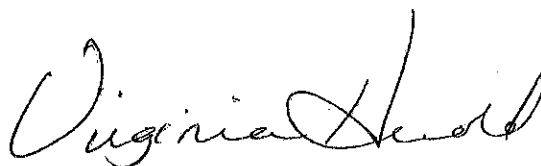
10 1. Revoking or suspending Pharmacy Technician Registration Number TCH 123607,  
11 issued to Jonathan Moses Troncoso;

12 2. Ordering Jonathan Moses Troncoso to pay the Board of Pharmacy the reasonable  
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code  
14 section 125.3; and,

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

16  
17  
18 DATED: \_\_\_\_\_

7/19/17



19 VIRGINIA HEROLD  
20 Executive Officer  
21 Board of Pharmacy  
22 Department of Consumer Affairs  
23 State of California  
24 *Complainant*

25  
26  
27 SD2017705079  
28 81750960.doc