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

12 In the Matter of the Accusation Against:

Case No. 4520

13 **KRISTIAN MICHELLE KLIMAN**  
14 **25058 Babbling Brook Circle**  
**Menifee, CA 92584**

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

15 **Pharmacy Technician Registration**  
16 **No. TCH 125321**

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, Department of Consumer Affairs.

23 2. On or about August 2, 2012, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 125321 to Kristian Michelle Kliman (Respondent). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on June 30, 2014, unless renewed.

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## JURISDICTION

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

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

5. Section 4300.1 of the Code 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.

## STATUTORY PROVISIONS

6. Section 4301 of the Code states:

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:

....

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

....

(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.

....

7. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" 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.

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

5 (c) Any other drug or device that by federal or state law can be lawfully  
6 dispensed only on prescription or furnished pursuant to Section 4006.

#### 7 COSTS

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

#### 14 DRUGS

15 9. Heroin is a Schedule I controlled substance as designated by Health and Safety  
16 Code section 11054, subdivision (c)(11), and is a dangerous drug pursuant to Business and  
17 Professions Code section 4022.

18 10. Xanax, a brand name for alprazolam, is a Schedule IV controlled substance as  
19 designated by Health and Safety Code section 11057, subdivision (d)(1), and is a dangerous drug  
20 pursuant to Business and Professions Code section 4022.

#### 21 FACTUAL ALLEGATIONS

22 11. On or about September 6, 2012, deputies from the Riverside County Sheriff's  
23 Department assigned to the City of Temecula's Special Enforcement Team were conducting  
24 proactive patrol. The deputies observed a vehicle with excessively tinted windows and no front  
25 license plate. The deputies got behind the vehicle and activated their emergency lights. They  
26 observed the vehicle swerving in its lane, until it finally pulled over after three or four blocks.  
27 Based on their observations, the deputies believed that the occupants of the vehicle were  
28 attempting to conceal items from law enforcement. Upon making contact with the driver of the  
vehicle (Respondent's sister), they observed she appeared to be under the influence of a  
controlled substance. Her two-year-old son was in the back seat. Respondent, who was in the

1 passenger seat, admitted to the deputies that he had a Xanax in his pocket. The deputies searched  
2 Respondent and found a partial tablet of Xanax and a digital scale in his pockets. Respondent  
3 told the deputies that he did not have a legal prescription for the Xanax, and that he possessed the  
4 digital scale because he was going to pharmacy school. Respondent admitted to the deputies that  
5 he had smoked heroin just before they were pulled over. Based on Respondent's objective  
6 symptoms (constricted pupils, slow speech, brown tongue, and eyelid flutter), the deputies  
7 believed Respondent was under the influence of a controlled substance. Respondent was arrested  
8 and transported to the sheriff substation. After being *Mirandized*, Respondent told the deputies  
9 that prior to being pulled over, he and his sister had smoked heroin using a piece of tin foil found  
10 in the vehicle. Respondent further admitted that he had been using heroin off and on for about a  
11 year and that he uses it about once a week.

12 12. As a result of the arrest, in a criminal proceeding entitled *People of the State of*  
13 *California v. Kristian Michelle Kliman*, in Riverside County Superior Court, case number  
14 SWM1206479, a complaint was filed on October 16, 2012, charging Respondent with violating  
15 Health and Safety Code section 11550, subdivision (a), under the influence of a controlled  
16 substance, and Health and Safety Code section 11375, subdivision (b)(2), unlawful possession of  
17 a controlled substance, misdemeanors. Respondent failed to appear at his arraignment on October  
18 18, 2012. The court issued a bench warrant which remains in effect.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Illegal Use of a Controlled Substance)**

21 13. Respondent has subjected his registration to disciplinary action under section 4301,  
22 subdivision (h) of the Code for unprofessional conduct in that on or about September 6, 2012, as  
23 described in paragraph 12, above, Respondent illegally used the controlled substance heroin in a  
24 manner as to be dangerous or injurious to himself, to others, and to the public.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Violation of State Laws Regulating Controlled Substances)**

27 14. Respondent has subjected his registration to disciplinary action under section 4301,  
28 subdivision (j) of the Code for unprofessional conduct in that on or about September 6, 2012, as

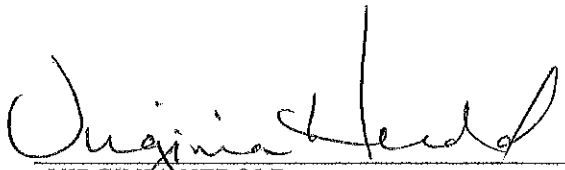
1 detailed in paragraph 12, above, Respondent violated Health and Safety Code section 11550,  
2 subdivision (a), under the influence of a controlled substance, and Health and Safety Code section  
3 11375, subdivision (b)(2), unlawful possession of a controlled substance.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Technician Registration Number TCH 125321,  
8 issued to Kristian Michelle Kliman;
- 9 2. Ordering Kristian Michelle Kliman to pay the Board of Pharmacy the reasonable  
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
11 Code section 125.3;
- 12 3. Taking such other and further action as deemed necessary and proper.

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14  
15 DATED: 3/1/13

  
16 VIRGINIA HEROLD  
17 Executive Officer  
18 Board of Pharmacy  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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