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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **SANDRA LYNN FOWLER**
13 **aka SANDRA LYNN KALINKE**
2824 Thicket Pl.
14 Simi Valley, CA 93065
15 Pharmacy Technician Registration
16 No. TCH 41248
17 Respondent.

Case No. 5880
FIRST AMENDED ACCUSATION

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about March 22, 2002, the Board of Pharmacy (Board) issued Pharmacy
24 Technician Registration No. TCH 41248 to Sandra Lynn Fowler, also known as Sandra Lynn
25 Kalinke (Respondent). The Pharmacy Technician Registration expired on November 30, 2015
26 and was cancelled on March 6, 2016, pursuant to Business and Professions Code section 4402,
27 subdivision (e).

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JURISDICTION

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

STATUTORY PROVISIONS

4. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued."

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued."

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code."

5. Section 493 states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board 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

1 order to fix the degree of discipline or to determine if the conviction is substantially related to the
2 qualifications, functions, and duties of the licensee in question. As used in this section, "license"
3 includes "certificate," "permit," "authority," and "registration."

4 6. Section 4059, subdivision (a) states:

5 "A person may not furnish any dangerous drug, except upon the prescription of a physician,
6 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A
7 person may not furnish any dangerous device, except upon the prescription of a physician, dentist,
8 podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7."

9 7. Section 4060 provides in pertinent part, that no person shall possess any controlled
10 substance, except that furnished to a person upon the prescription of a physician, dentist,
11 podiatrist, optometrist, veterinarian, or other authorized prescriber.

12 8. Section 4300 provides, in pertinent part, that every license issued by the Board is
13 subject to discipline, including suspension or revocation.

14 9. Section 4300.1 states:

15 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
16 operation of law or by order or decision of the board or a court of law, the placement of a license
17 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
18 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
19 proceeding against, the licensee or to render a decision suspending or revoking the license."

20 10. Section 4301 states, in pertinent part:

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

24

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

28

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

6

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

9

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

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1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

9 **COST RECOVERY**

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

14 **CONTROLLED SUBSTANCE**

15 13. "Marijuana," is a Schedule I controlled substance as designated by Health and Safety
16 Code section 11054, subdivision (d)(13) and is categorized as a dangerous drug pursuant to
17 section 4022.

18 14. "Oxycodone," is the generic name for Oxycontin. It is a Schedule II controlled
19 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M) and is
20 categorized as a dangerous drug pursuant to section 4022.

21 15. "Opiates," is a Schedule I controlled substance as designated by Health and Safety
22 Code section 11054, subdivision (b) and is categorized as a dangerous drug pursuant to section
23 4022.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Convictions of Substantially Related Crimes)**

26 16. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
27 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
28 Respondent has been convicted of a crime substantially related to the qualifications, functions or

1 duties of a pharmacy technician. Specifically, on or about September 27, 2016, Respondent was
2 convicted of one felony count of violating Health and Safety Code section 11351 [possession for
3 sale of a controlled substance] in the criminal proceeding entitled *The People of the State of*
4 *California v. Sandra Lynn Kalinke* (Super. Ct. Ventura County, 2016, No. 2015021645). On
5 January 3, 2017, the court sentenced Respondent to serve 180 days in jail and placed her on 36
6 months formal probation, with terms and conditions. The circumstances surrounding the
7 conviction are that on or about July 7, 2015, an officer observed Respondent sitting in her parked
8 pickup truck snorting something. Upon approaching Respondent, the officer observed
9 Respondent crushing a green pill with a lighter on her center console. Respondent admitted that
10 she was crushing her prescription Oxycodone pills and snorting them. She further admitted that
11 she has been addicted to opiate prescription pills for approximately 7 years. Respondent further
12 admitted that she had just purchased Marijuana from a dispensary and had it in the truck.
13 Respondent handed the officer her prescription bottle of Oxycodone and indicated that she had
14 just filled her prescription in the morning for 180 pills. However, the pill bottle contained only 75
15 pills. A search of Respondent's vehicle, revealed the Marijuana that Respondent had just
16 purchased and \$344.00 in cash. Respondent admitted that she sold 12 of her pills to friend name
17 Crystal for \$8.00 each and that she based the price on what she had paid in the past to illegally
18 obtain Oxycodone from various drug dealers herself. She further admitted that she has been
19 selling her prescription pills for approximately 8 months after realizing she could make money off
20 of them. A search of Respondent's cell phone, revealed multiple text messages received that day
21 regarding narcotics transactions.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Acts Involving Dishonesty, Fraud, or Deceit)**

24 17. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
25 that Respondent committed acts involving dishonesty, fraud, or deceit. Complainant refers to,
26 and by this reference incorporates, the allegations set forth above in paragraph 16, as though set
27 forth fully.

28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Furnishing Dangerous Drugs Without A Prescription)**

3 18. Respondent is subject to disciplinary action under sections 4301, subdivision (j) and
4 4059, in that Respondent furnished dangerous drugs without a prescription. Complainant refers
5 to, and by this reference incorporates, the allegations set forth above in paragraph 16, as though
6 set forth fully.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Use/Under the Influence of a Controlled Substance)**

9 19. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
10 that Respondent used and/or was under the influence of a controlled substance. Complainant
11 refers to, and by this reference incorporates, the allegations set forth above in paragraph 16, as
12 though set forth fully.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Obtained or Possessed a Controlled Substance)**

15 20. Respondent is subject to disciplinary action under section 4301, subdivision (j), as
16 defined in section 4060, in that Respondent illegally obtained or possessed a controlled substance.
17 Complainant refers to, and by this reference incorporates, the allegations set forth above in
18 paragraph 16, as though set forth fully.

19 **DISCIPLINARY CONSIDERATIONS**

20 21. In order to determine the degree of discipline, if any, to be imposed on Respondent,
21 Complainant alleges that on or about May 6, 1998, Respondent was arrested by the Simi Valley
22 Police Department for violating Health and Safety Code section 11550, subdivision (a) [use/under
23 the influence of a controlled substance.

24 **PRAYER**

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

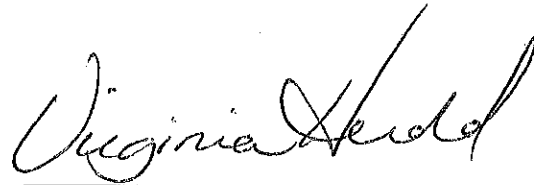
27 1. Revoking or suspending Pharmacy Technician Registration No. TCH 41248, issued
28 to Sandra Lynn Fowler, also known as Sandra Lynn Kalinke;

1 2. Ordering Sandra Lynn Fowler to pay the Board of Pharmacy the reasonable costs of
2 the investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3; and,

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

7 DATED: _____

1/30/17



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

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27 Jz(1/26/17)

1 KAMALA D. HARRIS
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12 In the Matter of the Accusation Against:

Case No. 5880

13 **SANDRA LYNN FOWLER**
14 **aka SANDRA LYNN KALINKE**
2824 Thicket Pl.
15 Simi Valley, CA 93065

A C C U S A T I O N

16 Pharmacy Technician Registration
No. TCH 41248

17 Respondent.

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.

22 2. On or about March 22, 2002, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 41248 to Sandra Lynn Fowler, also known as Sandra Lynn
24 Kalinke (Respondent). The Pharmacy Technician Registration expired on November 30, 2015
25 and was cancelled on March 6, 2016, pursuant to Business and Professions Code section 4402,
26 subdivision (e).

27 ///

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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 unless otherwise indicated.

4 STATUTORY PROVISIONS

5 4. Section 490 states, in pertinent part:

6 "(a) In addition to any other action that a board is permitted to take against a licensee, a
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
9 or profession for which the license was issued."

10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
11 discipline a licensee for conviction of a crime that is independent of the authority granted under
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
13 of the business or profession for which the licensee's license was issued."

14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence, irrespective of a subsequent order under the
19 provisions of Section 1203.4 of the Penal Code."

20 5. Section 493 states:

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

1 qualifications, functions, and duties of the licensee in question. As used in this section, "license"
2 includes "certificate," "permit," "authority," and "registration."

3 6. Section 4059, subdivision (a) states:

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5 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A
6 person may not furnish any dangerous device, except upon the prescription of a physician, dentist,
7 podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7."

8 7. Section 4060 provides in pertinent part, that no person shall possess any controlled
9 substance, except that furnished to a person upon the prescription of a physician, dentist,
10 podiatrist, optometrist, veterinarian, or other authorized prescriber.

11 8. Section 4300 provides, in pertinent part, that every license issued by the Board is
12 subject to discipline, including suspension or revocation.

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16 status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction
17 to commence or proceed with any investigation of, or action or disciplinary proceeding against, the
18 licensee or to render a decision suspending or revoking the license."

19 10. Section 4301 states, in pertinent part:

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21 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
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25 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
26 whether the act is a felony or misdemeanor or not.

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

6

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

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10 (l) The conviction of a crime substantially related to the qualifications, functions, and
11 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
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16 The board may inquire into the circumstances surrounding the commission of the crime, in order
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24 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
25 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
26 indictment.”

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1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

9 **COST RECOVERY**

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

14 **CONTROLLED SUBSTANCE**

15 13. "Marijuana," is a Schedule I controlled substance as designated by Health and Safety
16 Code section 11054, subdivision (d)(13) and is categorized as a dangerous drug pursuant to
17 section 4022.

18 14. "Oxycodone," is the generic name for Oxycontin. It is a Schedule II controlled
19 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M) and is
20 categorized as a dangerous drug pursuant to section 4022.

21 15. "Opiates," is a Schedule I controlled substance as designated by Health and Safety
22 Code section 11054, subdivision (b) and is categorized as a dangerous drug pursuant to section
23 4022.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Convictions of Substantially Related Crimes)**

26 16. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
27 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
28 Respondent has been convicted of a crime substantially related to the qualifications, functions or

1 duties of a pharmacy technician. Specifically, on or about September 27, 2016, Respondent was
2 convicted of one felony count of violating Health and Safety Code section 11351 [possession for
3 sale of a controlled substance] in the criminal proceeding entitled *The People of the State of*
4 *California v. Sandra Lynn Kalinke* (Super. Ct. Ventura County, 2016, No. 2015021645). The
5 court placed Respondent on formal probation, with terms and conditions. The circumstances
6 surrounding the conviction are that on or about July 7, 2015, an officer observed Respondent
7 sitting in her parked pickup truck snorting something. Upon approaching Respondent, the officer
8 observed Respondent crushing a green pill with a lighter on her center console. Respondent
9 admitted that she was crushing her prescription Oxycodone pills and snorting them. She further
10 admitted that she has been addicted to opiate prescription pills for approximately 7 years.
11 Respondent further admitted that she had just purchased Marijuana from a dispensary and had it
12 in the truck. Respondent handed the officer her prescription bottle of Oxycodone and indicated
13 that she had just filled her prescription in the morning for 180 pills. However, the pill bottle
14 contained only 75 pills. A search of Respondent's vehicle, revealed the Marijuana that
15 Respondent had just purchased and \$344.00 in cash. Respondent admitted that she sold 12 of her
16 pills to friend name Crystal for \$8.00 each and that she based the price on what she had paid in
17 the past to illegally obtain Oxycodone from various drug dealers herself. She further admitted
18 that she has been selling her prescription pills for approximately 8 months after realizing she
19 could make money off of them. A search of Respondent's cell phone, revealed multiple text
20 messages received that day regarding narcotics transactions.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Acts Involving Dishonesty, Fraud, or Deceit)**

23 17. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
24 that Respondent committed acts involving dishonesty, fraud, or deceit. Complainant refers to,
25 and by this reference incorporates, the allegations set forth above in paragraph 16, as though set
26 forth fully.

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THIRD CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs Without A Prescription)

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3 18. Respondent is subject to disciplinary action under sections 4301, subdivision (j) and
4 4059, in that Respondent furnished dangerous drugs without a prescription. Complainant refers
5 to, and by this reference incorporates, the allegations set forth above in paragraph 16, as though
6 set forth fully.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Use/Under the Influence of a Controlled Substance)**

9 19. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
10 that Respondent used and/or was under the influence of a controlled substance. Complainant
11 refers to, and by this reference incorporates, the allegations set forth above in paragraph 16, as
12 though set forth fully.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Obtained or Possessed a Controlled Substance)**

15 20. Respondent is subject to disciplinary action under section 4301, subdivision (j), as
16 defined in section 4060, in that Respondent illegally obtained or possessed a controlled substance.
17 Complainant refers to, and by this reference incorporates, the allegations set forth above in
18 paragraph 16, as though set forth fully.

19 **DISCIPLINARY CONSIDERATIONS**

20 21. In order to determine the degree of discipline, if any, to be imposed on Respondent,
21 Complainant alleges that on or about May 6, 1998, Respondent was arrested by the Simi Valley
22 Police Department for violating Health and Safety Code section 11550, subdivision (a) [use/under
23 the influence of a controlled substance.

24 **PRAYER**

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

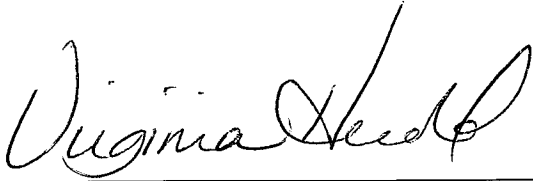
- 27 1. Revoking or suspending Pharmacy Technician Registration No. TCH 41248, issued to
28 Sandra Lynn Fowler, also known as Sandra Lynn Kalinke;

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2. Ordering Sandra Lynn Fowler 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; and,

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

DATED: 11/28/16



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

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