

1 BILL LOCKYER, Attorney General
of the State of California
2 KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-7859
Facsimile: (916) 327-8643
6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2643

11 HEATHER L. ZERTUCHE
A.K.A. HEATHER L. KEARNEY
12 8441 Zachis Way
Antelope, CA 95843

**STIPULATED REVOCATION OF
LICENSE AND ORDER**

13 Pharmacy Technician Registration No. TCH
14 14263

15 Respondent.

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 PARTIES

21 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
22 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
23 by Bill Lockyer, Attorney General of the State of California, by Kent D. Harris, Deputy Attorney
24 General.

25 2. Heather L. Zertuche (Respondent) is representing herself in this
26 proceeding and has chosen not to exercise her right to be represented by counsel.

27 3. On or about October 26, 1994, the Board of Pharmacy issued Pharmacy
28 Technician Registration No. TCH 14263 to a.k.a. Heather L. Kearney, Heather L. Zertuche. The

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 2643.

3 JURISDICTION

4 4. Accusation No. 2643 was filed before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on January 5,
7 2004. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of
8 Accusation No. 2643 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations
11 in Accusation No. 2643. Respondent also has carefully read, and understands the effects of this
12 Stipulated Revocation of License and Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
15 counsel, at her own expense; the right to confront and cross-examine the witnesses against her;
16 the right to present evidence and to testify on her own behalf; the right to the issuance of
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to
18 reconsideration and court review of an adverse decision; and all other rights accorded by the
19 California Administrative Procedure Act and other applicable laws.

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

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in
24 Accusation No. 2643, agrees that cause exists for discipline.

25 9. Respondent understands that by signing this stipulation she enables the
26 Board to issue an order revoking her Pharmacy Technician Registration without further process.

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CONTINGENCY

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2 10. This stipulation shall be subject to approval by the Board of Pharmacy.
3 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
4 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
5 without notice to or participation by Respondent. By signing the stipulation, Respondent
6 understands and agrees that she may not withdraw her agreement or seek to rescind the
7 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
8 stipulation as its Decision and Order, the Stipulated Revocation and Disciplinary Order shall be
9 of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
10 between the parties, and the Board shall not be disqualified from further action by having
11 considered this matter.

12 11. The parties understand and agree that facsimile copies of this Stipulated
13 Revocation of License and Order, including facsimile signatures thereto, shall have the same
14 force and effect as the originals.

15 12. In consideration of the foregoing admissions and stipulations, the parties
16 agree that the (Board) may, without further notice or formal proceeding, issue and enter the
17 following Order:

ORDER

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19 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH
20 14263, issued to Respondent Heather L. Kearney, a.k.a. Heather L. Zertuche is hereby Revoked.
21 Respondent shall relinquish her pocket technician registration to the board within 10 days of the
22 effective date of this decision. Respondent may not petition the board for reinstatement of her
23 revoked technician registration for three years from the effective date of this decision.

24 A condition of reinstatement shall be that the respondent is certified by the Pharmacy
25 Technician Certification Board (PTCB) and provides satisfactory proof of certification to the
26 board.

27 13. Respondent shall lose all rights and privileges as a Pharmacy Technician in
28 California as of the effective date of the Board's Decision and Order.

1 14. Respondent shall pay the Board its costs of investigation and enforcement in
2 the amount of \$1,000.00 prior to issuance of a new or reinstated license.

3 ACCEPTANCE

4 I have carefully read the Stipulated Revocation of License and Order. I
5 understand the stipulation and the effect it will have on my Pharmacy Technician Registration.
6 I enter into this Stipulated Revocation of License and Order voluntarily, knowingly, and
7 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

8 DATED: 3/01/04.

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11 HEATHER L. ZERTUCHE
Respondent

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14 ENDORSEMENT

15 The foregoing Stipulated Revocation of License and Order is hereby respectfully
16 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

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18 DATED: 3/12/04.

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20 BILL LOCKYER, Attorney General
of the State of California

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22 
23 KENT D. HARRIS
Deputy Attorney General

24 Attorneys for Complainant

25
26 DOJ Docket Number/Matter ID: 03583110-SA20031015

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

In the Matter of the Accusation Against:

Case No. 2643

A.K.A. HEATHER L. KEARNEY
HEATHER L. ZERTUCHE
8441 Zachis Way
Antelope, CA 95843

Pharmacy Technician Registration No. TCH
14263

Respondent.

DECISION AND ORDER

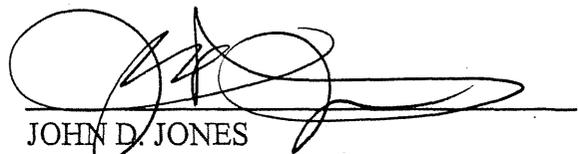
The attached Stipulated Revocation of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 9, 2004.

It is so ORDERED April 9, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2643

1 BILL LOCKYER, Attorney General
of the State of California
2 KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
3 California Department of Justice
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A.K.A. HEATHER L. KEARNEY
13 8441 Zachis Way
Antelope, CA 95843

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH
15 14263

16 Respondent.
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18 Complainant alleges:

19 PARTIES

20 1. Patricia F. Harris (Complainant) brings this 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 October 26, 1994, the Board of Pharmacy issued Pharmacy
24 Technician Registration Number TCH 14263 to Heather L. Zertuche, a.k.a. Heather L. Kearney
25 (Respondent). The Pharmacy Technician Registration was in full force and effect at all times
26 relevant to the charges brought herein and will expire on January 31, 2004, unless renewed.
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1 and enforcement of the case.

2 7. Diethylpropion (a stimulant, trade name Tenuate) is a Schedule IV Controlled
3 Substance pursuant to Health & Safety Code section 11057(f)(1).

4 FIRST CAUSE FOR DISCIPLINE

5 (Corrupt Acts--Stealing Controlled Substances)

6 8. Respondent is subject to disciplinary action under section 4301(f) in that
7 on or between September and December 2002 she stole 168 tablets of Diethylpropion from
8 Broadway Pharmacy while employed as a Pharmacy Technician there.

9 SECOND CAUSE FOR DISCIPLINE

10 (Unlawful Possession of Controlled Substances)

11 9. Respondent is subject to disciplinary action under section 4060 and
12 4301(o) in that on and between September and December 2002 she unlawfully possessed
13 Diethylpropion without a valid prescription.

14 THIRD CAUSE FOR DISCIPLINE

15 (Making and signing a false statement)

16 10. Respondent is subject to disciplinary action under section 4301(g) in that
17 on January 23, 2003 respondent provided a false and misleading signed statement to Board of
18 Pharmacy inspectors wherein she specifically denied that she had any knowledge or involvement
19 with the theft of Diethylpropion from Broadway Pharmacy. Respondent later recanted said
20 statement.

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22 PRAYER

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

25 A. Revoking or suspending Pharmacy Technician Registration Number TCH
26 14263, issued to Heather L. Zertuche, a.k.a. Heather L. Kearney;

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B. Ordering Heather L. Zertuche 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;

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

DATED: 12/16/03

P. J. Harris
PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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zertuche accusation.wpd
kdh:10/21/03