

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

In the Matter of the Accusation Against:

IRENE KIRSCHENMAN
10125 Saint Albans Ave.
Bakersfield, CA 93311

**Pharmacy Technician Registration No.
TCH 30147**

Respondent.

Case No. 4636

OAH No. 20144060203

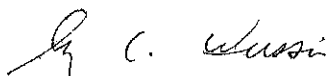
DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 27, 2015.

It is so ORDERED on January 28, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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IRENE KIRSCHENMAN,

Respondent.

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PROPOSED DECISION

The hearing in the above-captioned matter took place on November 10, 2014, before Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH). Complainant Virginia Herold was represented by Bora Song, Deputy Attorney General. Respondent Irene Kirschenman appeared and represented herself.

At the end of the hearing, the record was held open so that Respondent could submit copies of documents which would support one of her factual contentions. Although the documents were due on November 24, Respondent submitted them on December 1, 2014, and they were marked as exhibit A.¹ Complainant made no objection to exhibit A, which will be received in evidence. That document contains social security numbers, which will be redacted by the ALJ.

The matter was submitted for decision on December 1, 2014. The ALJ hereby makes his factual findings, legal conclusions, and order.

FACTUAL FINDINGS

1. Complainant filed the Accusation against Respondent while acting in her official capacity as Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

¹ OAH records indicate that a copy of exhibit A was e-mailed to Ms. Song on December 1, 2014, and when contacted by an OAH clerk on December 23, 2014, Ms. Song acknowledged receipt of the documents.

2. On July 30, 1999, the Board issued Pharmacy Technician Registration number TCH 30147 to Respondent. The registration will expire on January 31, 2015, unless renewed.

3. In November 2012 and January 2013, Respondent suffered misdemeanor convictions, in two separate cases. Each of the convictions, described below, are substantially related to the duties, qualifications, and functions of a pharmacy technician. Furthermore, and as described below, when Respondent renewed her license, she failed to inform the Board of one of her convictions, though obligated to do so.

4. (A) On November 21, 2012, Respondent pled nolo contendere to one count of violating Penal Code section 460, subdivision (b), second degree burglary. Thereafter, on January 15, 2013, her conviction was entered as a misdemeanor pursuant to Penal Code section 17, based on Respondent's earlier plea.² The conviction was entered in the Superior Court of California, County of Kern.

(B) The court suspended imposition of sentence, and placed Respondent on summary probation for three years, on the condition she serve 60 days in jail, and she was referred to the work release program. She was ordered to pay fines, penalties, and fees in the amount of \$550, and ordered to pay restitution to the victims of the crime in the amount of \$10,335.31. Other terms of probation, typical of probation grants, were imposed.

(C) The facts and circumstances of the crime are somewhat involved. In summary, Respondent and her husband were found at the scene of a burglary of a recreational vehicle (RV). When the owners of the RV arrived, Respondent was sitting in the passenger side of a pick-up truck. Respondent's husband was found inside the RV stealing a television; he damaged the RV in the process. The owners of the RV spoke to Respondent, took the keys from the ignition of the truck and they then confronted Respondent's husband, who was coming out of the RV. While the owners were confronting Respondent's husband, she took a set of keys to the truck from her purse, and started the engine. She then sped away from the scene, with her husband riding on the rear bumper.

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² The Accusation alleges that the conviction occurred on November 21, 2012, but Respondent was not sentenced until January 15, 2013. Typically, a conviction does not enter until sentencing, but it should be noted that the outlines of the sentence were set forth in the record at the time of the November 21 court appearance, and the plea was conditioned on the sentence pronounced on January 15. Business and Professions Code section 4301, subdivision (l), defines a conviction to include a plea of guilty or nolo contendere. Thus, for the purposes of the Superior Court, Respondent was convicted on January 15, 2013, but for the purposes of this proceeding, she was convicted on November 21, 2012.

5. (A) Respondent's second conviction was entered on November 30, 2012, and it also entered in the Superior Court of California, County of Kern. In that matter, Respondent was convicted, on her plea of nolo contendere, of filing a false police report in violation of Penal Code section 148.5, subdivision (a), a misdemeanor.

(B) The court suspended sentence and placed Respondent on informal probation for a period of three years. Respondent was ordered to pay a fine of \$569, and to pay a probation violation restitution fine of \$120, but that payment was suspended pending completion of probation. (The court allowed Respondent to pay the \$569 fine in monthly installments of \$50.) She was ordered to serve two days in jail, but was given credit for time served, and for good behavior.

(C) The facts and circumstances leading up to this conviction, are, like in the other matter, convoluted, and very much revolve around Respondent's husband. On April 30, 2012, Kern County Sheriff's deputies responded to an alarm at the Kern Mosquito Abatement District (District). An employee of the District told deputies that he had found a motorcycle at the District's fence line, and he had found the fence cut in the immediate vicinity of the motorcycle. The District employee concluded that the District property had been burglarized, but nobody was with the motorcycle. The motorcycle was registered to Respondent's husband. He had left the area before deputies arrived, abandoning his motorcycle, which was then impounded.

(D) At her husband's request, Respondent reported the motorcycle stolen, the day after he had abandoned it at the District's fence line. According to Respondent, he told her it had been stolen from their home after she had gone to bed on the night of April 30, 2012. On May 4, 2012, Respondent went to the Sheriff's Department to retrieve the motorcycle. During questioning, she changed the story she had told when she first reported the motorcycle stolen.

(E) In the course of investigating the matter of the burglary at the District, Sheriff's deputies obtained a search warrant for Respondent's home. They found a substantial amount of stolen tools and other items in the garage of the home. They found evidence that Respondent's husband was dealing drugs from the home; he was arrested that same day, away from the home, while in possession of methamphetamine and drug paraphernalia. They found \$2,282, in cash, in Respondent's lab coat, after she told them the money was there. She told the police at the time that she had cashed her tax refund check, and that she had received a cash child support payment, and that was why she had the cash. Three bottles of prescription drugs were found in the bedroom Respondent shared with her husband, but the name on the bottles did not belong to anyone in the household.

6. (A) In January 2013, Respondent submitted her application to renew her technician's license, which was then set to expire on January 31, 2013. Although the day that Respondent completed the renewal application is not disclosed by the record, the Board received the renewal application on January 13, 2013. The renewal application set out the

following question, in small print but enclosed within a box: "Since you last renewed your license, have you had any license disciplined by a government agency or other disciplinary body, or, have you been convicted of any crime in any state, the U.S.A. and its territories, military court or a foreign country? PLEASE READ INSTRUCTIONS BEFORE ANSWERING." (Ex. 8, capitalization in original.)

(B) Respondent checked the box "No." Plainly, this was a false answer given the conviction that entered against her in connection with the false police report. Although, as noted in footnote 2, the conviction on the burglary charge had not formally been entered in the Court's docket at the time Respondent sent the renewal application to the Board, she had already entered her plea in the burglary case.

7. At the hearing, Respondent explained that she did not know her husband was going to break into the RV; he had told her he had to stop by a friend's house, and she panicked once the confrontation began. Later, he told her that if she pled to a misdemeanor in that case, he could get a reduced sentence, from seven to four years, and that was one reason she entered her plea. As to the matter of the false report, her husband asked her to call in the stolen motorcycle. She made the report at 5:00 a.m., and all she knew was that it was gone. Respondent knew her husband was using methamphetamine, and denies ever using it herself. She denied knowledge of the prescription drugs found during the search of her bedroom. Regarding her license renewal, she stated that she believed she had to report only felonies, but also stated her attorney told her that the convictions would be expunged. However, she acknowledged that they had not been expunged when she sent in her renewal.

8. Respondent has been a pharmacy technician for 16 years, and there is no record of prior discipline. She has three daughters, two are adults, and one is a teenager. Her employer, CVS pharmacy, is unaware of her convictions. Respondent's husband is still in prison.

9. Exhibit A, produced by Respondent after the hearing, is made up of tax documents that indicate Respondent was entitled to a tax refund of \$2,668 for the year 2011. That amount is slightly different from the amount of money found by law enforcement when her home was searched. However, it adds credence to her claim, and undercuts the implication that she was involved with drug dealing. Respondent's W-2 form indicates she made approximately \$3,000 per month in 2011. Her husband's income was substantially higher.

10. The Board incurred costs in the investigation and prosecution of this matter, totaling \$4,555.

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LEGAL CONCLUSIONS

1. The Board has jurisdiction to proceed in this matter, pursuant to Business and Professions Code section 4300,³ based on Factual Findings 1 and 2.

2. Each of Respondent's convictions were substantially related to the duties, qualifications, and functions of a pharmacy technician, based on Factual Findings 3 through 5, and California Code of Regulations (CCR), title 16, section 1700.⁴ In each instance, the convictions involved acts of dishonesty. Honesty and integrity are always required of professionals, especially those in health care, entrusted with access to controlled substances and sensitive patient information.

3. Respondent's convictions were for crimes of moral turpitude, as they involved dishonesty. This Conclusion is based on Factual Findings 3 through 5, and *In re Rothrock* (1944) 25 Cal.2d 588.

4. Cause exists to discipline Respondent's registration—her license to act as a pharmacy technician—pursuant to sections 490 and 4301, subdivision (l), in conjunction with CCR section 1700, for her two convictions of crimes substantially related to the duties, qualifications, and functions of a pharmacy technician, based on Legal Conclusions 1 and 2, and Factual Findings 3 through 5.

5. Cause exists to discipline Respondent's registration pursuant to section 4301, subdivision (f), for her acts involving moral turpitude, dishonesty, and deceit, based on Factual Findings 4 and 5.

6. Cause exists to discipline Respondent's registration pursuant to section 4301, subdivision (g), for knowingly making a false statement on her application to renew her registration by denying she had been convicted of a crime. This Conclusion is based on Factual Findings 5 and 6.

7. It was not established that Respondent's registration is subject to discipline pursuant to section 4301, subdivision (j), for violation of statutes pertaining to controlled substances. The nature of the prescriptions found at Respondent's residence when it was searched is not disclosed by the record, and are not sufficiently tied to Respondent.

8. The Board is entitled to recover its costs of investigation and prosecution pursuant to section 125.3, based on Legal Conclusions 1 through 6. The reasonable costs of investigation and prosecution is \$4,555, based on Factual Finding 10. It is fairly inferred that

³ All further statutory references are to the Business and Professions Code unless otherwise stated.

⁴ All citations to the CCR are to title 16 thereof.

Respondent's financial resources are slender, as her husband is incarcerated, and his income is lost to her, and she was ordered to pay over \$10,000 in restitution in the burglary case. (See Factual Findings 4(B) & 9.) The discipline order that follows will further impact her income. Therefore, pursuant to *Zuckerman v. State Board of Chiropractic Examiners*, (2002) 29 Cal.4th 32, 45, an order will follow that the costs can be paid in installments if Respondent is reinstated by the Board in the future.

9. Other allegations upon which findings or legal conclusions have not been made are deemed unproven, or surplusage.

10. The Board has established Disciplinary Guidelines, which list criteria for use in determining the level of discipline to imposed. Those criteria, not exclusive, are:

1. Actual or potential harm to the public.
2. Actual or potential harm to any consumer.
3. Prior disciplinary record, including level of compliance with disciplinary order(s).
4. Prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s).
5. Number and/or variety of current violations.
6. Nature and severity of the act(s), offense(s) or crime(s) under consideration.
7. Aggravating evidence.
8. Mitigating evidence.
9. Rehabilitation evidence.
10. Compliance with terms of any criminal sentence, parole, or probation.
11. Overall criminal record.
12. If applicable, evidence of proceedings for case being set aside and dismissed pursuant to Section 1203.4 of the Penal Code.
13. Time passed since the act(s) or offense(s).
14. Whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct.
15. Financial benefit to the respondent from the misconduct.

11. (A) Applying the discipline criteria to this case, there was harm to the public by both of the convictions, as property was stolen from one family, and law enforcement resources were misused by Respondent in her false report. No consumers were harmed, and Respondent does not have prior discipline or warnings. There are three current violations, the two convictions and the misstatement on the license renewal.

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(B) In mitigation, there is evidence that Respondent's husband was the bad actor in this case. It does not appear that the stolen property found in the garage of Respondent's home—mostly tools—was taken by her. On the other hand, she knew of his drug use, and should have been aware of his drug dealing.

(C) Respondent's knowing misstatement on her license renewal is at once an aggravating factor, and evidence that she was not then on the road to rehabilitation, and that act was hers alone; her husband did not file the renewal form.

(D) Respondent had no criminal record until 2012, and she is apparently in compliance with probation. Only about two and one-half years have passed since the events that led to her conviction, and the convictions are even more recent. She will remain on criminal probation until January 2016.

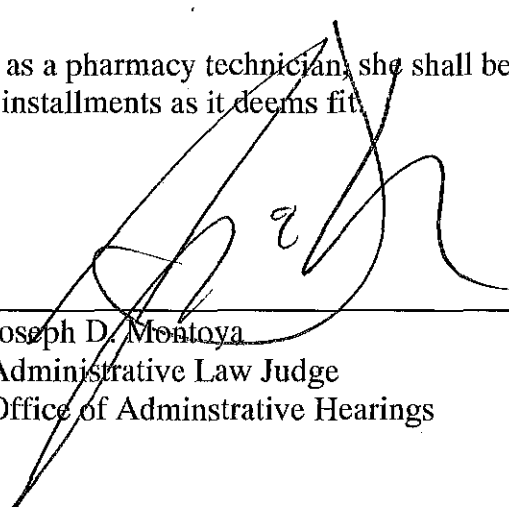
12. The purpose of proceedings of this type is to protect the public, not to punish an errant licensee. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784-786; *Bryce v. Board of Medical Quality Assurance* (1986) 184 Cal.App.3d 1471, 1476.) In this case Respondent gave little evidence in mitigation or of rehabilitation. While her convictions may have resulted from being married to the wrong person, and being with him at the wrong time, her misstatement to the Board in her license renewal was a dishonest act of her own volition. In all the circumstances, her registration should be revoked. She may reapply at such time as the law allows.

ORDER

1. The Pharmacy Technician Registration, number TCH 30147, issued to Respondent Irene Kirschenman, is hereby revoked.

2. If and when Respondent is reinstated as a pharmacy technician, she shall be ordered to pay costs of \$4,555 to the Board in such installments as it deems fit.

December 29, 2014



Joseph D. Montoya
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 BORA SONG
Deputy Attorney General
4 State Bar No. 276475
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2674
6 Facsimile: (213) 897-2804
Attorneys for Complainant
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4636

12 **IRENE KIRSCHENMAN**
13 10125 Saint Albans Ave.
Bakersfield, CA 93311

ACCUSATION

14 **Pharmacist Technician Registration No.**
15 **TCH 30147**

16 Respondent.

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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 July 30, 1999, the Board of Pharmacy issued Pharmacist Technician Registration
24 Number TCH 30147 to IRENE KIRSCHENMAN (Respondent). The Pharmacist Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on January 31, 2015, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws.

4 STATUTORY PROVISIONS

5 4. Business and Professions Code section 118, subdivision (b),¹ provides that the
6 suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of
7 jurisdiction to proceed with a disciplinary action during the period within which the license may
8 be renewed, restored, reissued, or reinstated.

9 5. Section 490 states, in pertinent part:

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

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

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

27 6. Section 4300 permits the Board to take disciplinary action by suspending or revoking
28 any license issued by the Board.

7. Section 4300.1 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.

¹ All further statutory references are to the Business and Professions Code unless
otherwise indicated.

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8. Section 4301 states, in pertinent part:

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:

...

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

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

...

(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.

...

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action 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 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.

...

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

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1 9. Section 493 states:

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

12 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
13 and 'registration.'

14 **STATUTORY PROVISION**

15 10. California Code of Regulations, title 16, section 1770, states:

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

23 **COST RECOVERY**

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

27 **CONTROLLED SUBSTANCE**

28 12. Methamphetamine is a Schedule II controlled substance as designated by Section
4021 and Health and Safety Code section 11055, subdivision (d)(2).

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Substantially Related Crime)**

3 13. Respondent is subject to disciplinary action under Section 490 and Section 4301,
4 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that
5 Respondent was convicted of a crime substantially related to the qualifications, functions, or
6 duties of a pharmacy technician, as follows:

7 14. On November 21, 2012, in a criminal proceeding entitled *People v. Aaron*
8 *Kirschenman and Irene Valero*² (Super. Ct. Kern County, 2012, No. BF139693), Respondent was
9 convicted of one misdemeanor count of Penal Code section 460, subdivision (b) [second degree
10 burglary]. On January 15, 2013, the Court placed Respondent on three years probation with
11 standard terms and conditions of probation. The Court also ordered Respondent to serve 60 days
12 in custody with one day credit for time served, stayed until February 14, 2013, and referred
13 Respondent to the work release program. The factual circumstances of the offense are as follows:

14 a. On or about April 17, 2011, an officer from the Bakersfield Police Department
15 was dispatched to an RV park and contacted two victims. The victims reported that their fifth
16 wheel RV had been broken into and that they confronted the two suspects who fled in a truck.
17 The officer entered the fifth wheel and noted that the victims' 26-inch Visio television had been
18 stolen. The officer processed the fifth wheel for latent fingerprint evidence. On or about October
19 20, 2011, while reviewing the case, the officer saw that a possible suspect had been identified
20 through fingerprints as Aaron Kirschenman. On or about October 21, 2011, the officer went to
21 Aaron Kirschenman's residence and observed a truck matching the suspect vehicle description.
22 The officer ran a records check of the vehicle, which revealed that Respondent was the registered
23 owner. Each of the victims of the crime identified Respondent as one of the two individuals
24 involved in the burglary in a photographic line-up. Later that afternoon, the officer made contact
25 with Respondent outside of her residence, at which time Respondent identified Aaron
26 Kirschenman as her husband. Respondent admitted to being present in the truck at the time of the

27 ² Irene Valero was charged in the criminal complaint with an aka of Irene Kirschenman
28 and she is the Respondent in this administrative matter.

1 burglary of the fifth wheel. Respondent claimed that she was just a passenger and did not know
2 what was going on. She stated that her husband was present during the offense, but that she did
3 not realize that he was breaking into the trailer. Respondent denied knowledge of the stolen
4 television.

5 15. On November 30, 2012, in a criminal proceeding entitled *People v. Shana Adams,*
6 *Aaron Kirschenman, Irene Kirschenman, and Travis Norm Swanson* (Super. Ct. Kern County,
7 2012, No. BF142568), Respondent pled nolo contendere to one misdemeanor count of Penal
8 Code section 148.5, subdivision (a) [filing a false report]. Respondent had also being charged
9 with Health and Safety Code section 11377, subdivision (a) [possession of a controlled
10 substance], and Penal Code section 496, subdivision (a) [receiving stolen property], but these
11 additional charges were dismissed in light of the plea. The Court placed Respondent on three
12 years probation with standard terms and conditions. The factual circumstances of the offense are
13 as follows:

14 a. On or about April 30, 2012, deputies from the Kern County Sheriff's
15 Department responded to an alarm at the Kern Mosquito Abatement District (Mosquito
16 Abatement). The deputies made contact with the party responsible for the Mosquito Abatement
17 site (Responsible Party). The Responsible Party told the deputies that he located a motorcycle on
18 the west fence line, that there was a cut in the fence line next to the motorcycle, and that the
19 believed the suspects entered the Mosquito Abatement through the cut fence. One of the deputies
20 conducted a records check of the motorcycle, which revealed that the motorcycle was registered to
21 Aaron Kirschenman. Later, while the deputy was having the motorcycle towed and stored, he
22 found that the motorcycle was now reported as stolen. Upon contacting the Bakersfield Police
23 Department, the deputy was advised that Aaron Kirschenman had called to report his motorcycle,
24 helmet, and other items as stolen. On or about May 4, 2012, Respondent went to the Kern County
25 Sheriff's Office Headquarters to get the motorcycle, which was reported stolen on May 1, 2012,
26 released. Deputies from the Kern County Sheriff's Department interviewed Respondent
27 regarding the report of the stolen motorcycle. During the interview, Respondent stated that she
28 called to report the motorcycle as stolen when her husband Aaron Kirschenman asked her to, and

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Knowingly Making a False Statement of Fact)**

3 17. Respondent is subject to disciplinary action under Section 4301, subdivision (g), in
4 that Respondent knowingly made or signed a certificate or other document that falsely represented
5 the existence or nonexistence of a state of facts, as follows: On or about January 21, 2013, the
6 Board received Respondent's Pharmacy Technician Renewal Application. On the application,
7 Respondent indicated that she had not been convicted of a crime since her last renewal; however,
8 on November 21, 2012, Respondent was convicted of a violation of Penal Code section 460,
9 subdivision (a), and on November 30, 2012, Respondent was convicted of a violation of Penal
10 Code section 148.5, subdivision (a). Complainant refers to, and by this reference incorporates,
11 the allegations set forth above in paragraphs 14 and 15, as though set forth fully herein.
12 Moreover, on or about May 1, 2012, Respondent filed a false police report when she falsely
13 reported that her motorcycle had been stolen. Complainant refers to, and by this reference
14 incorporates the allegations set forth above in paragraphs 15 and 15(a), as though set forth fully
15 herein.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Violation of State Statutes Regulating Controlled Substances)**

18 18. Respondent is subject to disciplinary action under Section 4301, subdivision (j), in
19 that Respondent violated a California statute regulating controlled substances. Complainant
20 refers to, and by this reference incorporates the allegations set forth above in paragraphs 15 and
21 15(b), as though set forth fully herein.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Violation of Laws and Regulations Governing Pharmacy)**

24 19. Respondent is subject to disciplinary action under Section 4301, subdivision (o), in
25 that Respondent committed an act or several acts in violation of the state laws and regulations
26 governing pharmacy, including regulations established by the Board or by any other state or
27 federal regulatory agency. Complainant refers to, and by this reference incorporate, the
28 allegations set forth above in paragraphs 14 though 18, inclusive, as though set forth fully herein.

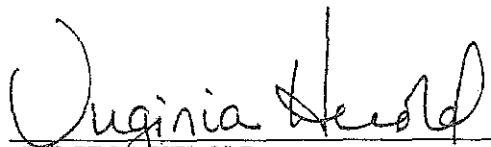
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WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist Technician Registration Number TCH 30147, issued to IRENE KIRSCHENMAN;
2. Ordering IRENE KIRSCHENMAN 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 3/15/14



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

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