



**California State Board of Pharmacy**  
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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY  
 DEPARTMENT OF CONSUMER AFFAIRS  
 GOVERNOR EDMUND G. BROWN JR.

**APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE**

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Kelly Murray</u>	Case No. <u>4440</u>
Address of Record: <u>135 Sunshine Drive</u> <u>Pacificca CA 94044</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. 4440, I hereby request to surrender my pharmacy technician license, License No. 51924 (51924). The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pharmacy technician license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

Kelly Murray  
 Applicant's Signature

10.22.13  
 Date

Virginia Acocel  
 Executive Officer's Approval

10-31-13  
 Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

**KELLY M. MURRAY**  
135 Sunshine Drive  
Pacifica, CA 94044

Pharmacy Technician License No. TCH 51924

Respondent.

Case No. 4440

OAH No. 2013050899

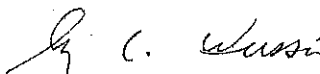
**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary 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 October 25, 2013.

It is so ORDERED on September 25, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

STAN C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

12 **KELLY M. MURRAY**  
13 **aka KELLY MARIE RAMIREZ**  
14 **135 Sunshine Drive**  
**Pacifica, CA 94044**  
**Pharmacy Technician License No. TCH 51924**  
Respondent.

Case No. 4440

OAH No. 2013050899

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
16 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,  
17 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will  
18 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

19 PARTIES

20 1. Virginia Herold (Complainant), Executive Officer, Board of Pharmacy, brought this  
21 action in her official capacity and is represented in this matter by Kamala D. Harris, Attorney  
22 General of the State of California, by Joshua A. Room, Supervising Deputy Attorney General.

23 2. Kelly M. Murray (Respondent) is representing herself in this proceeding and has  
24 chosen not to exercise her right to be represented by counsel.

25 3. On or about September 29, 2003, the Board of Pharmacy issued Pharmacy Technician  
26 License No. TCH 51924 to Kelly M. Murray (Respondent). The License was in full force and  
27 effect at all times relevant to the charges brought in Accusation No. 4440 and will expire on  
28 August 31, 2013, unless renewed.

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JURISDICTION

4. Accusation No. 4440 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 28, 2013. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 4440 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands, the charges and allegations in Accusation No. 4440. Respondent has also carefully read, and understands the effects of, this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 4440. Respondent agrees that her Pharmacy Technician License is subject to discipline and agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

9. Admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Pharmacy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

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CONTINGENCY

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

11       11. The parties understand and agree that Portable Document Format (PDF) and facsimile  
12 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format  
13 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14       12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
15 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
16 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
17 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
18 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
19 writing executed by an authorized representative of each of the parties.

20       13. In consideration of the foregoing, the parties agree that the Board may, without  
21 further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

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26       IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 51924, issued to  
27 Kelly M. Murray (Respondent), is revoked. However, the revocation is stayed and Respondent is  
28 placed on probation for five (5) years on the following terms and conditions.

1           **1. Certification Prior to Resuming Work**

2           Respondent shall be automatically suspended from working as a pharmacy technician until  
3 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides  
4 satisfactory proof of certification to the board. Respondent shall not resume working as a  
5 pharmacy technician until notified by the board. Failure to achieve certification within one (1)  
6 year shall be considered a violation of probation.

7           During suspension, respondent shall not enter any pharmacy area or any portion of any  
8 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
9 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
10 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
11 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
12 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
13 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
14 substances. Failure to comply with this suspension shall be considered a violation of probation.

15           **2. Obey All Laws**

16           Respondent shall obey all state and federal laws and regulations.

17           Respondent shall report any of the following occurrences to the board, in writing, within  
18 seventy-two (72) hours of such occurrence:

- 19           • an arrest or issuance of a criminal complaint for violation of any provision of the  
20 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
21 substances laws
- 22           • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
23 criminal complaint, information or indictment
- 24           • a conviction of any crime
- 25           • discipline, citation, or other administrative action filed by any state or federal agency  
26 which involves respondent's pharmacy technician license or which is related to the  
27 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,  
28 or charging for any drug, device or controlled substance.

1 Failure to timely report such occurrence shall be considered a violation of probation.

2 **3. Report to the Board**

3 Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
4 designee. The report shall be made either in person or in writing, as directed. Among other  
5 requirements, respondent shall state in each report under penalty of perjury whether there has  
6 been compliance with all the terms and conditions of probation. Failure to submit timely reports  
7 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency  
8 in submission of reports as directed may be added to the total period of probation. Moreover, if  
9 the final probation report is not made as directed, probation shall be automatically extended until  
10 such time as the final report is made and accepted by the board.

11 **4. Interview with the Board**

12 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews  
13 with the board or its designee, at such intervals and locations as are determined by the board or its  
14 designee. Failure to appear for any scheduled interview without prior notification to board staff,  
15 or failure to appear for two (2) or more scheduled interviews with the board or its designee during  
16 the period of probation, shall be considered a violation of probation.

17 **5. Cooperate with Board Staff**

18 Respondent shall cooperate with the board's inspection program and with the board's  
19 monitoring and investigation of respondent's compliance with the terms and conditions of her  
20 probation. Failure to cooperate shall be considered a violation of probation.

21 **6. Notice to Employers**

22 During the period of probation, respondent shall notify all present and prospective  
23 employers of the decision in case number 4440 and the terms, conditions and restrictions imposed  
24 on respondent by the decision, as follows:

25 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
26 respondent undertaking any new employment, respondent shall cause her direct supervisor,  
27 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
28 tenure of employment) and owner to report to the board in writing acknowledging that the listed

1 individual(s) has/have read the decision in case number 4440, and terms and conditions imposed  
2 thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s)  
3 submit timely acknowledgment(s) to the board.

4 If respondent works for or is employed by or through a pharmacy employment service,  
5 respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity  
6 licensed by the board of the terms and conditions of the decision in case number 4440 in advance  
7 of the respondent commencing work at each licensed entity. A record of this notification must be  
8 provided to the board upon request.

9 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
10 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
11 service, respondent shall cause her direct supervisor with the pharmacy employment service to  
12 report to the board in writing acknowledging that she has read the decision in case number 4440  
13 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
14 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

15 Failure to timely notify present or prospective employer(s) or to cause employer(s) to  
16 submit timely acknowledgments to the board shall be considered a violation of probation.

17 "Employment" within the meaning of this provision shall include any full-time,  
18 part-time, temporary or relief service or pharmacy management service as a pharmacy  
19 technician or in any position for which a pharmacy technician license is a requirement  
20 or criterion for employment, whether the respondent is considered an employee,  
21 independent contractor or volunteer.

#### 22 **7. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, respondent shall pay to the  
24 board its costs of investigation and prosecution in the amount of \$2,322.50. Respondent shall be  
25 permitted to pay these costs in a payment plan approved by the board or its designee, so long as  
26 full payment is made within fifty-four (54) months of the effective date of this decision. There is  
27 to be no deviation from this schedule absent prior written approval by the board or its designee.  
28 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.



1           The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to  
2 reimburse the board its costs of investigation and prosecution.

3           **8. Probation Monitoring Costs**

4           Respondent shall pay any costs associated with probation monitoring as determined by the  
5 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
6 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
7 be considered a violation of probation.

8           **9. Status of License**

9           Respondent shall, at all times while on probation, maintain an active, current license with  
10 the board, including any period during which probation is tolled. Failure to maintain an active,  
11 current license shall be considered a violation of probation. If respondent's license expires or is  
12 cancelled by operation of law or otherwise at any time during the period of probation, including  
13 any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's  
14 license shall be subject to all terms and conditions of this probation not previously satisfied.

15           **10. Notification of Change in Employment, Name, Address(es) or Phone(s)**

16           Respondent shall notify the board in writing within ten (10) days of any change of  
17 employment. Said notification shall include the reasons for leaving, the address of the new  
18 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
19 shall further notify the board in writing within ten (10) days of a change in name, residence  
20 address, mailing address, or phone number. Failure to timely notify the board of any change in  
21 employer, name, address, or phone number shall be considered a violation of probation.

22           **11. Employment Requirement; Tolling of Probation**

23           Except during periods of suspension, respondent shall, at all times while on probation, be  
24 employed as a pharmacy technician in California for a minimum of forty (40) hours per calendar  
25 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,  
26 the period of probation shall be extended by one month for each month during which this  
27 minimum is not met. During any such period of tolling of probation, respondent must  
28 nonetheless comply with all terms and conditions of probation.

1           Should respondent, regardless of residency, for any reason (including vacation) cease  
2 working as a pharmacy technician for a minimum of forty (40) hours per calendar month in  
3 California, respondent must notify the board in writing within ten (10) days of cessation of work  
4 and must further notify the board in writing within ten (10) days of the resumption of the work.  
5 Any failure to provide such notification(s) shall be considered a violation of probation.

6           It is a violation of probation for respondent's probation to remain tolled pursuant to the  
7 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
8 exceeding thirty-six (36) months.

9           "Cessation of work" means a calendar month during which respondent is not  
10 working for at least forty (40) hours as a pharmacy technician, as defined in Business  
11 and Professions Code section 4115. "Resumption of work" means any calendar  
12 month during which respondent is working for at least forty (40) hours as a pharmacy  
13 technician as defined by Business and Professions Code section 4115.

#### 14           **12. Criminal Probation/Parole Reports**

15           Respondent shall provide a copy of the conditions of any criminal probation/parole to the  
16 board, in writing, within ten (10) days of the issuance or modification of those conditions.  
17 Respondent shall provide the name of her probation/parole officer to the board, in writing, within  
18 ten (10) days after that officer is designated or a replacement for that officer is designated. If  
19 respondent is already on criminal probation or parole, or has already had a probation or parole  
20 officer designated, as of the effective date of this decision, the deadline for submission of the  
21 above shall be ten (10) days from the effective date. Respondent shall provide a copy of all  
22 criminal probation/parole reports to the board within ten (10) days after respondent receives a  
23 copy of such a report. Failure to timely make any of the submissions required hereby shall be  
24 considered a violation of probation.

#### 25           **13. No Ownership of Licensed Premises**

26           Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
27 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
28 partnership, or corporation currently or hereinafter licensed by the board.

1 Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the  
2 board within ninety (90) days of the effective date of this decision and shall within ten (10) days  
3 thereafter provide written proof to the board. Failure to timely divest any legal or beneficial  
4 interest(s) or provide documentation thereof shall be considered a violation of probation.

5 **14. Prescription Coordination and Monitoring of Prescription Use**

6 Within thirty (30) days of the effective date of this decision, respondent shall submit to the  
7 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
8 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's  
9 mental status history and history of use of controlled substances or dangerous drugs, and who will  
10 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled  
11 substances, or mood-altering drugs. The approved practitioner shall be provided with a copy of  
12 the board's Accusation and decision. A record of this notification must be provided to the board  
13 upon request. Respondent shall sign a release authorizing the practitioner to communicate with  
14 the board about respondent's treatment(s).

15 The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall  
16 report to the board on a quarterly basis for the duration of probation regarding respondent's  
17 compliance with this condition. If any substances considered addictive have been prescribed, the  
18 report shall identify a program for the time limited use of any such substances. The board may  
19 require that the single coordinating physician, nurse practitioner, physician assistant or  
20 psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.  
21 Should respondent, for any reason, cease supervision by the approved practitioner, respondent  
22 shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the  
23 name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of  
24 respondent's choice to the board or its designee for its prior approval. Failure to timely submit  
25 the selected practitioner or replacement practitioner to the board for approval, or to ensure the  
26 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

27 If at any time an approved practitioner determines that respondent is unable to practice  
28 safely or independently as a pharmacy technician, the practitioner shall notify the board

1 immediately by telephone and follow up by written letter within three (3) working days. Upon  
2 notification by the board or its designee of this determination, respondent shall be automatically  
3 suspended and shall not resume practice until notified by the board that practice may be resumed.

4 During any such suspension, respondent shall not enter any pharmacy area or any portion of  
5 any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
6 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
7 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
8 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
9 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
10 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
11 substances. Failure to comply with this suspension shall be considered a violation of probation.

12 **15. Mental Health Examination**

13 Within thirty (30) days of the effective date of this decision, and on a periodic basis as may  
14 be required by the board or its designee, respondent shall undergo, at her own expense, one or  
15 more psychiatric evaluation(s) by a board-appointed or board-approved licensed mental health  
16 practitioner. The approved evaluator shall be provided with a copy of the board's Accusation and  
17 decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a  
18 current diagnosis and a written report regarding the respondent's judgment and ability to function  
19 independently as a pharmacy technician with safety to the public. Respondent shall comply with  
20 all the recommendations of the evaluator if directed by the board or its designee.

21 If the evaluator recommends, and the board or its designee directs, respondent shall  
22 undergo psychotherapy. Within thirty (30) days of notification by the board that a  
23 recommendation for psychotherapy has been accepted, respondent shall submit to the board or its  
24 designee, for prior approval, the name and qualification of a licensed mental health practitioner of  
25 respondent's choice. Within thirty (30) days of approval thereof by the board, respondent shall  
26 submit documentation to the board demonstrating the commencement of psychotherapy with the  
27 approved licensed mental health practitioner.

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1           Should respondent, for any reason, cease treatment with the approved licensed mental  
2 health practitioner, respondent shall notify the board immediately and, within thirty (30) days of  
3 ceasing treatment therewith, submit the name of a replacement licensed mental health practitioner  
4 of respondent's choice to the board for its prior approval. Within thirty (30) days of approval  
5 thereof, respondent shall submit documentation to the board demonstrating the commencement of  
6 psychotherapy with the approved replacement. Failure to comply with any requirement or  
7 deadline stated in the preceding shall be considered a violation of probation.

8           Upon approval of the initial or any subsequent licensed mental health practitioner,  
9 respondent shall undergo and continue treatment with that therapist, at respondent's own expense,  
10 until the therapist recommends in writing to the board, and the board or its designee agrees by  
11 way of a written notification to respondent, that no further psychotherapy is necessary. Upon  
12 receipt of such recommendation from the treating therapist, and before determining whether to  
13 accept or reject said recommendation, the board or its designee may require respondent to  
14 undergo, at respondent's expense, a mental health evaluation by a separate board-appointed or  
15 board-approved evaluator. If the approved evaluator recommends that respondent continue  
16 psychotherapy, the board or its designee may require respondent to continue psychotherapy.

17           Psychotherapy shall be at least once a week unless otherwise approved by the board or its  
18 designee. Respondent shall provide the therapist with a copy of the board's Accusation and  
19 decision no later than the first therapy session. Respondent shall take all necessary steps to  
20 ensure that the treating therapist submits written quarterly reports to the board concerning  
21 respondent's fitness to practice, progress in treatment, and other such information as may be  
22 required by the board or its designee.

23           If at any time the approved evaluator or therapist determines that respondent is unable to  
24 practice safely or independently as a pharmacy technician, the licensed mental health practitioner  
25 shall notify the board immediately by telephone and follow up by written letter within three (3)  
26 working days. Upon notification from the board or its designee of this determination, respondent  
27 shall be automatically suspended and shall not resume practice until notified by the board that  
28 practice may be resumed.

1 During any such suspension, respondent shall not enter any pharmacy area or any portion of  
2 any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
3 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
4 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
5 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
6 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
7 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
8 substances. Failure to comply with this suspension shall be considered a violation of probation.

9 In addition, if the approved evaluator or therapist recommends, or indicates that respondent  
10 would benefit from, increased monitoring of respondent's alcohol or drug use, the board or its  
11 designee may require that respondent comply with any or all of the following four (4) additional  
12 terms and conditions, which shall then be incorporated into the requirements of probation:

13 **a) Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

14 Within thirty (30) days of the effective date of this decision, respondent shall begin regular  
15 attendance at a recognized and established substance abuse recovery support group in California,  
16 (e.g., AA, NA, etc.) which has been approved by the board or its designee. Respondent must  
17 attend at least one group meeting per week unless otherwise directed by the board or its designee.  
18 Respondent shall continue regular attendance and submit signed and dated documentation  
19 confirming attendance with each quarterly report for the duration of probation. Failure to attend  
20 or submit documentation thereof shall be considered a violation of probation.

21 **b) Random Drug Screening**

22 Respondent, at her own expense, shall participate in random testing, including but not  
23 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
24 screening as directed by the board or its designee. Respondent may be required to participate in  
25 testing for the entire probation period and frequency of testing will be determined by the board or  
26 its designee. At all times, respondent shall fully cooperate with the board or its designee, and  
27 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,  
28 hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct.

1 Failure to timely submit to testing as directed shall be considered a violation of probation.  
2 Upon request of the board or its designee, respondent shall provide documentation from a  
3 licensed practitioner that the prescription for a detected drug was legitimately issued and is a  
4 necessary part of the treatment of the respondent. Failure to timely provide such documentation  
5 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any  
6 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment  
7 shall be considered a violation of probation and shall result in the automatic suspension of  
8 practice as a pharmacy technician by respondent. Respondent may not resume the practice of  
9 pharmacy until notified by the board in writing.

10 During any such suspension, respondent shall not enter any pharmacy area or any portion of  
11 any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
12 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
13 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
14 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
15 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
16 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
17 substances. Failure to comply with this suspension shall be considered a violation of probation.

18 **c) Notification of Departure**

19 Prior to leaving the probationary geographic area designated by the board or its designee for  
20 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in  
21 writing of the dates of departure and return. Failure to comply with this provision shall be  
22 considered a violation of probation.

23 **d) Abstain from Drugs and Alcohol Use**

24 Respondent shall fully abstain from possession or use of alcohol, controlled substances,  
25 dangerous drugs and their associated paraphernalia except when a drug is lawfully prescribed by  
26 a licensed practitioner as part of a documented medical treatment. Upon request of the board or  
27 its designee, respondent shall provide documentation from the licensed practitioner that the  
28 prescription for the drug was legitimately issued and is a necessary part of respondent's treatment.

1 Failure to timely provide such documentation shall be considered a violation of probation.  
2 Respondent shall ensure that she is not in the same physical location as individuals who are using  
3 illicit substances even if respondent is not personally ingesting the drugs. Any possession or use  
4 of alcohol, controlled substances, or their associated paraphernalia not supported by practitioner  
5 documentation timely provided, and/or any physical proximity to persons using illicit substances,  
6 shall be considered a violation of probation.

7 **16. License Surrender While on Probation/Suspension**

8 Following the effective date of this decision, should respondent cease practice due to  
9 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
10 respondent may tender her license to the board for surrender. The board or its designee shall have  
11 the discretion whether to grant the request for surrender or take any other action it deems  
12 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent  
13 will no longer be subject to the terms and conditions of probation. This surrender constitutes a  
14 record of discipline and shall become a part of the respondent's license history with the board.

15 Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to  
16 the board within ten (10) days of notification by the board the surrender is accepted. Respondent  
17 may not reapply for any license from the board for three (3) years from the effective date of the  
18 surrender. Respondent shall meet all requirements applicable to the license sought as of the date  
19 the application for that license is submitted to the board, including any outstanding costs.

20 **17. Violation of Probation**

21 If respondent has not complied with any term or condition of probation, the board shall  
22 have continuing jurisdiction over respondent, and probation shall automatically be extended, until  
23 all terms and conditions have been satisfied or the board has taken other action as deemed  
24 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
25 to impose the penalty that was stayed.

26 If respondent violates probation in any respect, the board, after giving respondent notice  
27 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
28 was stayed. If a petition to revoke probation or an accusation is filed against respondent during



1 probation, the board shall have continuing jurisdiction and the period of probation shall be  
 2 automatically extended until the petition to revoke probation or accusation is heard and decided.

3 **18. Completion of Probation**

4 Upon written notice by the board or its designee indicating successful completion of  
 5 probation, respondent's license will be fully restored.

7 ACCEPTANCE

8 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
 9 stipulation and the effect it will have on my Pharmacy Technician License. I enter into this  
 10 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
 11 to be bound by the Decision and Order of the Board of Pharmacy.

12  
 13 DATED: 8.13.13

*Kelly Murray Ramirez*  
 14 \_\_\_\_\_  
 15 KELLY M. MURRAY  
 aka KELLY MARIE RAMIREZ  
 Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
 18 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

19 Dated:

20 Respectfully submitted,

21 KAMALA D. HARRIS  
 Attorney General of California  
 22 FRANK H. PACOE  
 Supervising Deputy Attorney General

23  
 24  
 25 JOSHUA A. ROOM  
 Supervising Deputy Attorney General  
 Attorneys for Complainant

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2 automatically extended until the petition to revoke probation or accusation is heard and decided.

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11 to be bound by the Decision and Order of the Board of Pharmacy.

12  
13 DATED: \_\_\_\_\_

14 KELLY M. MURRAY  
15 aka KELLY MARIE RAMIREZ  
16 Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
19 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

20 Dated: 8/15/2013

21 Respectfully submitted,

22 KAMALA D. HARRIS  
23 Attorney General of California  
24 FRANK H. PACOE  
25 Supervising Deputy Attorney General

26   
27 JOSHUA A. ROOM  
28 Supervising Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 4440**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
*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. 4440

11 **KELLY M. MURRAY**  
12 **aka KELLY MARIE RAMIREZ**  
13 **135 Sunshine Drive**  
**Pacifica, CA 94044**

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

14 **Pharmacy Technician License No. TCH 51924**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about September 29, 2003, the Board of Pharmacy issued Pharmacy Technician  
22 License No. TCH 51924 to Kelly M. Murray aka Kelly Marie Ramirez (Respondent). The  
23 Pharmacy Technician License was in full force and effect at all times relevant to the charges  
24 brought herein and will expire on August 31, 2013, unless renewed.

25 JURISDICTION

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

1           4. Section 4011 of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.].

4           5. Section 4300(a) of the Code provides that every license issued by the Board may be  
5 suspended or revoked.

6           6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,  
7 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
8 disciplinary action during the period within which the license may be renewed, restored, reissued  
9 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not  
10 renewed within three years following its expiration may not be renewed, restored, or reinstated  
11 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of  
12 the Code provides that any other license issued by the Board may be canceled by the Board if not  
13 renewed within 60 days after its expiration, and any license canceled in this fashion may not be  
14 reissued but will instead require a new application to seek reissuance.

15   STATUTORY AND REGULATORY PROVISIONS

16           7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action  
17 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but  
18 not be limited to, any of the following:

19           (l) The conviction of a crime substantially related to the qualifications, functions, and duties  
20 of a licensee under this chapter.

21           8. California Code of Regulations, title 16, section 1770, states:

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

28           ///

1           9. Section 490 of the Code provides, in pertinent part, that the Board may suspend or  
2 revoke a license when it finds that the licensee has been convicted of a crime substantially related  
3 to the qualifications, functions or duties of the license.

4           10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
5 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
6 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

7                                   FIRST CAUSE FOR DISCIPLINE

8                                   (Conviction of Substantially Related Crime(s))

9           11. Respondent is subject to discipline under section 4301(l) and/or section 490 of the  
10 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of  
11 substantially related crime(s), in that on or about January 9, 2012, in the criminal case *People v.*  
12 *Kelly Marie Ramirez*, Case No. SC074711 in San Mateo County Superior Court, Respondent was  
13 convicted of violating Penal Code section 273.5, subdivision (a) (Willful Infliction of Corporal  
14 Injury Resulting in a Traumatic Condition on Spouse/Cohabitant), a felony, as follows:

15               a. On or about October 30, 2011, officer(s) from the Redwood City (CA) Police  
16 Department responded to a report of a domestic disturbance, and discovered that Respondent and  
17 her prior/separated spouse (the victim) had been engaged in an argument or series of arguments,  
18 after which Respondent got into her automobile and used the vehicle's front bumper to drive into  
19 the victim and pin his leg(s) between her vehicle's bumper and another vehicle's bumper, at least  
20 once. Respondent then fled the scene. The victim suffered injuries to his leg(s).

21               b. On or about November 29, 2011, Respondent was charged by Information in  
22 Case No. SC074711 with violating (1) Penal Code section 245, subdivision (a)(1) (Assault With a  
23 Deadly Weapon), a felony, (2) Penal Code section 236 (False Imprisonment), a felony, and (3)  
24 Penal Code section 273.5, subdivision (a) (Willful Infliction of Corporal Injury Resulting in a  
25 Traumatic Condition on Spouse/Cohabitant), a felony.

26               c. On or about January 9, 2012, Respondent pleaded nolo contendere and was  
27 convicted of count (3) (Penal Code section 273.5, subdivision (a)), a felony, and included in the  
28 conditions of her plea referral to Pathways, a court-sponsored mental health treatment program.

1 d. On or about March 2, 2012, the Court ordered that Respondent was accepted  
2 into the Pathways treatment program, and further ordered that the imposition of sentence was  
3 suspended in favor of a period of supervised probation of three (3) years on terms and conditions  
4 including 149 days in county jail (149 days credit for time served/good time/work time), drug and  
5 alcohol testing, abstention from drug and alcohol use, treatment/therapy as directed, 114 hours of  
6 domestic violence counseling, search and seizure conditions, and fines, fees, and assessments.

7 SECOND CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct)

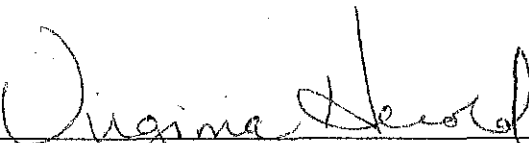
9 12. Respondent is subject to discipline under section 4301 of the Code in that, as  
10 described in paragraph 11 above, Respondent engaged in unprofessional conduct.

11  
12 PRAAYER

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

- 15 1. Revoking or suspending Pharmacy Technician License No. TCH 51924, issued to  
16 Kelly M. Murray aka Kelly Marie Ramirez (Respondent);
- 17 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
18 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 19 3. Taking such other and further action as is deemed necessary and proper.

20  
21 DATED: 2/19/13

21 

22 VIRGINIA HEROLD  
23 Executive Officer  
24 Board of Pharmacy  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant

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