

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

In the Matter of the Accusation Against:

**RACHEL ANN TURNER
13218 Fernie Way
Redding, CA 96003**

**Pharmacy Technician Registration
No. TCH 68096**

Respondent.

Case No. 5644

OAH No. 2016070161

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 at 5:00 p.m. on February 22, 2017.

It is so ORDERED January 23, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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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. 5644

12 **RACHEL ANN TURNER**
13 **13218 Fernie Way**
14 **Redding, CA 96003**

OAH No. 2016070161

15 **Pharmacy Technician Registration**
16 **No. TCH 68096**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17 Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Jeffrey M. Phillips, Deputy Attorney
24 General.

25 2. Respondent Rachel Ann Turner ("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 April 6, 2006, the Board of Pharmacy issued Pharmacy Technician
28 Registration No. TCH 68096 to Rachel Ann Turner (Respondent). The Pharmacy Technician

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 5644, and will expire on December 31, 2017, unless renewed.

3 JURISDICTION

4 4. Accusation No. 5644 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on June 28, 2016.

7 Respondent timely filed her Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 5644 is attached as exhibit A and incorporated herein by
9 reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 5644. Respondent has also carefully read, and understands the effects of this
13 Stipulated Settlement and Disciplinary Order.

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

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

23 CULPABILITY

24 9. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 5644.

26 10. Respondent agrees that her Pharmacy Technician Registration is subject to discipline
27 and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary
28 Order below.

1 RESERVATION

2 11. The admissions made by Respondent herein are only for the purposes of this
3 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
4 licensing agency is involved, and shall not be admissible in any other criminal or civil
5 proceeding.

6 CONTINGENCY

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

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

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

25 15. In consideration of the foregoing admissions and stipulations, the parties agree that
26 the Board may, without further notice or formal proceeding, issue and enter the following
27 Disciplinary Order:

28 //

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 68096 issued
3 to Respondent Rachel Ann Turner is revoked. However, the revocation is stayed and Respondent
4 is placed on probation for four (4) years on the following terms and conditions.

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

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

12 During suspension, respondent shall not enter any pharmacy area or any portion of any
13 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
14 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
15 devices or controlled substances are maintained. Respondent shall not do any act involving drug
16 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
17 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
18 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
19 substances. Respondent shall not resume work until notified by the board.

20 Failure to comply with this suspension shall be considered a violation of probation.

21 **2. Obey All Laws**

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

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

- 25 an arrest or issuance of a criminal complaint for violation of any provision of the
26 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
27 substances laws
28 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any

1 criminal complaint, information or indictment

2 a conviction of any crime

3 discipline, citation, or other administrative action filed by any state or federal agency
4 which involves respondent's pharmacy technician license or which is related to the
5 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
6 or charging for any drug, device or controlled substance.

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

8 **3. Report to the Board**

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

17 **4. Interview with the Board**

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

23 **5. Cooperate with Board Staff**

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

27 **6. Notice to Employers**

28 During the period of probation, respondent shall notify all present and prospective

1 employers of the decision in case number 5644 and the terms, conditions and restrictions imposed
2 on respondent by the decision, as follows:

3 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
4 respondent undertaking any new employment, respondent shall cause her direct supervisor,
5 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
6 tenure of employment) and owner to report to the board in writing acknowledging that the listed
7 individual(s) has/have read the decision in case number 5644 and the terms and conditions
8 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
9 supervisor(s) submit timely acknowledgement(s) to the board.

10 If respondent works for or is employed by or through a pharmacy employment service,
11 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
12 of the terms and conditions of the decision in case number 5644 in advance of the respondent
13 commencing work at each pharmacy. A record of this notification must be provided to the board
14 upon request.

15 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
16 (15) days of respondent undertaking any new employment by or through a pharmacy employment
17 service, respondent shall cause her direct supervisor with the pharmacy employment service to
18 report to the board in writing acknowledging that she has read the decision in case number 5644
19 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
20 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

21 Failure to timely notify present or prospective employer(s) or to cause that/those
22 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
23 probation.

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

1 **7. Reimbursement of Board Costs**

2 As a condition precedent to successful completion of probation, respondent shall pay to the
3 board its costs of investigation and prosecution in the amount of \$ 2,097.50. Respondent may
4 make payments in a payment plan if approved by the Board. There shall be no deviation from
5 this schedule absent prior written approval by the board or its designee. Failure to pay costs by
6 the deadline(s) as directed shall be considered a violation of probation.

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

9 **8. Probation Monitoring Costs**

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

14 **9. Status of License**

15 Respondent shall, at all times while on probation, maintain an active, current pharmacy
16 technician license with the board, including any period during which suspension or probation is
17 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

18 If respondent's pharmacy technician license expires or is cancelled by operation of law or
19 otherwise at any time during the period of probation, including any extensions thereof due to
20 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
21 terms and conditions of this probation not previously satisfied.

22 **10. License Surrender While on Probation/Suspension**

23 Following the effective date of this decision, should respondent cease work due to
24 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
25 respondent may tender her pharmacy technician license to the board for surrender. The board or
26 its designee shall have the discretion whether to grant the request for surrender or take any other
27 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
28 license, respondent will no longer be subject to the terms and conditions of probation. This

1 surrender constitutes a record of discipline and shall become a part of the respondent's license
2 history with the board.

3 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
4 license to the board within ten (10) days of notification by the board that the surrender is
5 accepted. Respondent may not reapply for any license, permit, or registration from the board for
6 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
7 applicable to the license sought as of the date the application for that license is submitted to the
8 board.

9 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
10 **Employment**

11 Respondent shall notify the board in writing within ten (10) days of any change of
12 employment. Said notification shall include the reasons for leaving, the address of the new
13 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
14 shall further notify the board in writing within ten (10) days of a change in name, residence
15 address and mailing address, or phone number.

16 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
17 phone number(s) shall be considered a violation of probation.

18 **12. Tolling of Probation**

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

25 Should respondent, regardless of residency, for any reason (including vacation) cease
26 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
27 respondent must notify the board in writing within ten (10) days of cessation of work and must
28 further notify the board in writing within ten (10) days of the resumption of the work. Any

1 failure to provide such notification(s) shall be considered a violation of probation.

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

5 "Cessation of work" means calendar month during which respondent is not
6 working for at least 40 hours as a pharmacy technician, as defined in Business and
7 Professions Code section 4115. "Resumption of work" means any calendar month
8 during which respondent is working as a pharmacy technician for at least 40 hours as
9 a pharmacy technician as defined by Business and Professions Code section 4115.

10 **13. Violation of Probation**

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

16 If respondent violates probation in any respect, the board, after giving respondent notice
17 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
18 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
19 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
20 a petition to revoke probation or an accusation is filed against respondent during probation, the
21 board shall have continuing jurisdiction, and the period of probation shall be automatically
22 extended until the petition to revoke probation or accusation is heard and decided.

23 **14. Completion of Probation**

24 Upon written notice by the board indicating successful completion of probation,
25 respondent's pharmacy technician license will be fully restored.

26 **15. No Ownership of Licensed Premises**

27 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
28 administrator, member, officer, director, trustee, associate, or partner of any business, firm,

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

6 **16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

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

15 **17. Random Drug Screening**

16 Respondent, at her own expense, shall participate in random testing, including but not
17 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
18 screening program as directed by the board or its designee. Respondent may be required to
19 participate in testing for the entire probation period and the frequency of testing will be
20 determined by the board or its designee. At all times respondent shall fully cooperate with the
21 board or its designee, and shall, when directed, submit to such tests and samples for the detection
22 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
23 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
24 of probation. Upon request of the board or its designee, respondent shall provide documentation
25 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
26 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
27 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
28 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment

1 shall be considered a violation of probation and shall result in the automatic suspension of work
2 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
3 board in writing.

4 During suspension, respondent shall not enter any pharmacy area or any portion of or any
5 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. Respondent shall not resume work until notified by the board.

12 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
13 Subject to the above restrictions, respondent may continue to own or hold an interest in any
14 licensed premises in which she holds an interest at the time this decision becomes effective unless
15 otherwise specified in this order.

16 Failure to comply with this suspension shall be considered a violation of probation.

17 **18: Work Site Monitor**

18 Within ten (10) days of the effective date of this decision, respondent shall identify a work
19 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
20 during working hours. Respondent shall be responsible for ensuring that the work site monitor
21 reports in writing to the board quarterly. Should the designated work site monitor determine at
22 any time during the probationary period that respondent has not maintained sobriety, she shall
23 notify the board immediately, either orally or in writing as directed. Should respondent change
24 employment, a new work site monitor must be designated, for prior approval by the board, within
25 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
26 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
27 considered a violation of probation.

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1 **19. Notification of Departure**

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

6 **20. Abstain from Drugs and Alcohol Use**

7 Respondent shall completely abstain from the possession or use of alcohol, controlled
8 substances, dangerous drugs and their associated paraphernalia except when the drugs are
9 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
10 request of the board or its designee, respondent shall provide documentation from the licensed
11 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
12 treatment of the respondent. Failure to timely provide such documentation shall be considered a
13 violation of probation. Respondent shall ensure that she is not in the same physical location as
14 individuals who are using illicit substances even if respondent is not personally ingesting the
15 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
16 not supported by the documentation timely provided, and/or any physical proximity to persons
17 using illicit substances, shall be considered a violation of probation.

18 **21. Prescription Coordination and Monitoring of Prescription Use**

19 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
20 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
21 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
22 history with the use of alcohol and who will coordinate and monitor any prescriptions for
23 respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved
24 practitioner shall be provided with a copy of the board's Accusation and decision. A record of
25 this notification must be provided to the board upon request. Respondent shall sign a release
26 authorizing the practitioner to communicate with the board about respondent's treatment(s). The
27 coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the
28 board on a quarterly basis for the duration of probation regarding respondent's compliance with

1 this condition. If any substances considered addictive have been prescribed, the report shall
2 identify a program for the time limited use of any such substances. The board may require that
3 the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a
4 specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent,
5 for any reason, cease supervision by the approved practitioner, respondent shall notify the board
6 immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement
7 physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the
8 board or its designee for its prior approval. Failure to timely submit the selected practitioner or
9 replacement practitioner to the board for approval, or to ensure the required reporting thereby on
10 the quarterly reports, shall be considered a violation of probation.

11 If at any time an approved practitioner determines that respondent is unable to practice
12 safely or independently as a pharmacy technician, the practitioner shall notify the board
13 immediately by telephone and follow up by written letter within three (3) working days. Upon
14 notification from the board or its designee of this determination, respondent shall be
15 automatically suspended and shall not resume practice until notified by the board that practice
16 may be resumed.

17 During suspension, respondent shall not enter any pharmacy area or any portion of or any
18 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
19 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
20 devices or controlled substances are maintained. Respondent shall not do any act involving drug
21 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
22 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
23 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
24 substances.

25 Respondent shall not resume work until notified by the board.

26 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
27 Subject to the above restrictions, respondent may continue to own or hold an interest in any
28 licensed premises in which he or she holds an interest at the time this decision becomes effective

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unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

ACCEPTANCE

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

DATED: 8/2/16 RTM

RACHEL ANN TURNER
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

Dated: 8/4/16

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General

JM Phillips
JEFFREY M. PHILLIPS
Deputy Attorney General
Attorneys for Complainant

SA2015105687
Stipulated Settlement and Disciplinary Order revised

Exhibit A

Accusation No. 5644

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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:	Case No. 5644
12	
13 RACHEL ANN TURNER	
14 aka RACHEL ANN ENDICOTT	ACCUSATION
15 13218 Fernie Way	
16 Redding, CA 96003	
17	
18 Pharmacy Technician Registration No. TCH	
19 68096	
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19 Virginia Herold ("Complainant") alleges:

20 **PARTIES**

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

23 2. On or about April 6, 2006, the Board issued Pharmacy Technician Registration
24 Number TCH 68096 to Rachel Ann Turner, also known as Rachel Ann Endicott ("Respondent").
25 The registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on December 31, 2017, unless renewed.

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JURISDICTION

3. Business and Professions Code ("Code") section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

4. Code 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.

STATUTORY PROVISIONS

5. Code 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:

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

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(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.

1 COST RECOVERY

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

6 FIRST CAUSE FOR DISCIPLINE

7 (Conviction of a Crime)

8 7. Respondent is subject to discipline pursuant to Code section 4301(l), on the grounds
9 of unprofessional conduct, in that on or about July 20, 2015, in the case of *People v. Rachel Ann*
10 *Turner*, (Super. Ct. Shasta County, 2015, Case No. CRTR150003087), Respondent was convicted
11 by the Court on her plea of nolo contendere of violating Vehicle Code section 23152(b) (driving
12 with a blood alcohol level of .08% or higher), a misdemeanor, with a prior conviction of the
13 same, as set forth below in subdivision (b), with an enhancement of Vehicle Code section 23578
14 (having a blood alcohol level of .15% or higher), and Vehicle Code section 23556(b)(4) (blood
15 alcohol level .20% or higher); and Penal Code section 148(a)(1) (resisting arrest), a misdemeanor.

16 The circumstances of the crime were that on or about April 4, 2015, Respondent drove a
17 vehicle while having a blood alcohol level of 0.20% and was driving her vehicle on the shoulder
18 of the roadway. While the officer was attempting to handcuff Respondent, she began twisting her
19 arm and trying to turn around. Respondent continued struggling with the officer, kicking and
20 screaming, and attempted to bite the officer twice on the hand. The crime is substantially related
21 to the qualifications, functions, or duties of a pharmacy technician.

22 SECOND CAUSE FOR DISCIPLINE

23 (Dangerous Use of Alcohol)

24 8. Respondent is subject to discipline pursuant to Code section 4301(h), on the grounds
25 of unprofessional conduct, in that Respondent consumed alcohol to the extent or in a manner as to
26 be dangerous or injurious to oneself and to the public, as follows:

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1 a. On or about February 8, 2014, Respondent was severely intoxicated while attending a
2 concert and became combative and uncooperative with the Shasta County sheriff officers who
3 were called out to the scene. Respondent was subsequently arrested for public intoxication.

4 b. On or about April 4, 2015, Respondent drove a vehicle while under the influence of
5 alcohol, as more particularly set forth above in paragraph 7.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Conviction Involving the Use of Alcohol)**

8 9. Respondent is subject to discipline pursuant to Code section 4301(k), on the grounds
9 of unprofessional conduct, in that on or about July 20, 2015, Respondent was convicted of more
10 than one misdemeanor or any felony involving the use, consumption, and self administration of
11 dangerous drugs and/or alcoholic, or any combination of those substances, as more particularly
12 set forth above in paragraph 7.

13 **MATTERS IN AGGRAVATION**

14 10. On or about June 22, 2001, in the case of *People v. Rachel Ann Turner*, (Super. Ct.
15 Shasta County, 2001, Case No. 10TR3900), Respondent was convicted by the court of violating
16 Vehicle Code section 23152(b) (driving with a blood alcohol level of .08% or higher), a
17 misdemeanor. The circumstances of the crime were that on or about May 9, 2001, Respondent
18 drove a vehicle while having a blood alcohol level of .08% or higher.

19 **PRAYER**

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

22 1. Revoking or suspending Pharmacy Technician Registration Number TCH 68096,
23 issued to Rachel Ann Turner;

24 2. Ordering Rachel Ann Turner to pay the Board of Pharmacy the reasonable costs of
25 the investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3; and,

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

DATED: 6/10/16

Virginia Herold

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

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