

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

In the Matter of the Accusation Against:

**ERIN ANNE KIRKSEY  
9208 9<sup>th</sup> Ave.  
Hesperia, CA 92345**

**Pharmacy Technician Registration No. TCH  
65835**

Respondent.

Case No. 5815

**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 May 24, 2017.

It is so ORDERED on April 24, 2017.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

Amy Gutierrez, Pharm.D.  
Board President

1 XAVIER BECERRA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
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7

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

11 In the Matter of the Accusation Against:

Case No. 5815

12 **ERIN ANNE KIRKSEY**  
9208 9th Ave.  
13 Hesperia, CA 92345

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 **Pharmacy Technician Registration No. TCH  
65835**

15 Respondent.  
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17  
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 (Board). She brought this action solely in her official capacity and is represented in this matter by  
23 Xavier Becerra, Attorney General of the State of California, by Elyse M. Davidson, Deputy  
24 Attorney General.

25 2. Respondent Erin Anne Kirksey (Respondent) is represented in this proceeding by  
26 attorney Nicole D. Tee-Irmer, whose address is: 2550 Fifth Avenue, Suite 1060,  
27 San Diego, CA 92103.

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1 3. On or about February 9, 2006, the Board issued Pharmacy Technician Registration  
2 No. TCH 65835 to Respondent Erin Anne Kirksey. The Pharmacy Technician Registration was  
3 in full force and effect at all times relevant to the charges brought in Accusation No. 5815, and  
4 will expire on May 31, 2017, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 5815 was filed before the Board, and is currently pending against  
7 Respondent. The Accusation and all other statutorily required documents were properly served  
8 on Respondent on June 27, 2016. Respondent timely filed her Notice of Defense contesting the  
9 Accusation.

10 5. A copy of Accusation No. 5815 is attached as exhibit A and incorporated herein by  
11 reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the  
14 charges and allegations in Accusation No. 5815. Respondent has also carefully read, fully  
15 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
16 Order.

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

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

25 **CULPABILITY**

26 9. Respondent admits the truth of each and every charge and allegation in Accusation  
27 No. 5815.

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 65835 issued  
3 to Respondent Erin Anne Kirksey is revoked. However, the revocation is stayed and Respondent  
4 is placed on probation for three (3) years on the following terms and conditions.

5 **1. Suspension**

6 As part of probation, respondent is suspended from working as a pharmacy technician for  
7 fifteen (15) days beginning the effective date of this decision.

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

16 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.

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

18 **2. Obey All Laws**

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

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

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

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

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

6           **3. Report to the Board**

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

15          **4. Interview with the Board**

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

21          **5. Cooperate with Board Staff**

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

25          **6. Notice to Employers**

26          During the period of probation, respondent shall notify all present and prospective  
27          employers of the decision in case number 5815 and the terms, conditions and restrictions imposed  
28          on respondent by the decision, as follows:

1           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
2 respondent undertaking any new employment, respondent shall cause her direct supervisor,  
3 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
4 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
5 individual(s) has/have read the decision in case number 5815 and the terms and conditions  
6 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or  
7 supervisor(s) submit timely acknowledgement(s) to the board.

8           If respondent works for or is employed by or through a pharmacy employment service,  
9 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy  
10 of the terms and conditions of the decision in case number 5815 in advance of the respondent  
11 commencing work at each pharmacy. A record of this notification must be provided to the board  
12 upon request.

13           Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
14 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
15 service, respondent shall cause her direct supervisor with the pharmacy employment service to  
16 report to the board in writing acknowledging that she has read the decision in case number 5815  
17 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
18 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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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 \$2,000. Respondent shall make  
4 payments in a plan approved by the board or its designee. Failure to pay costs by the deadline(s)  
5 as directed shall be considered a violation of probation.

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

8           **8. Probation Monitoring Costs**

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

13           **9. Status of License**

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

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

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

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



1 history with the board.

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

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

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

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

17       **12. Tolling of Probation**

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

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

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

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

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1           **15. Prescription Coordination and Monitoring of Prescription Use**

2           Within thirty (30) days of the effective date of this decision, respondent shall submit to the  
3 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
4 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's  
5 history of controlled substances, and/or dangerous drugs and who will coordinate and monitor  
6 any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering  
7 drugs. The approved practitioner shall be provided with a copy of the board's accusation and  
8 decision. A record of this notification must be provided to the board upon request. Respondent  
9 shall sign a release authorizing the practitioner to communicate with the board about respondent's  
10 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist  
11 shall report to the board on a quarterly basis for the duration of probation regarding respondent's  
12 compliance with this condition. If any substances considered addictive have been prescribed, the  
13 report shall identify a program for the time limited use of any such substances. The board may  
14 require that the single coordinating physician, nurse practitioner, physician assistant or  
15 psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.  
16 Should respondent, for any reason, cease supervision by the approved practitioner, respondent  
17 shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the  
18 name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of  
19 respondent's choice to the board or its designee for its prior approval. Failure to timely submit the  
20 selected practitioner or replacement practitioner to the board for approval, or to ensure the  
21 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

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

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1           During any suspension, respondent shall not enter any pharmacy area or any portion of the  
2 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug  
3 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or  
4 any area where dangerous drugs and/or dangerous devices or controlled substances are  
5 maintained. Respondent shall not do any act involving drug selection, selection of stock,  
6 manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist  
7 any licensee of the board. Respondent shall not have access to or control the ordering,  
8 manufacturing or dispensing of dangerous drugs and devices or controlled substances.  
9 Respondent shall not resume work until notified by the board. Respondent shall not direct, control  
10 or perform any aspect of the practice of pharmacy.

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

12           **16. Ethics Course**

13           Within sixty (60) calendar days of the effective date of this decision, respondent shall  
14 enroll in a course in ethics, at respondent's expense, approved in advance by the board or its  
15 designee. Failure to initiate the course during the first year of probation, and complete it within  
16 the second year of probation, is a violation of probation.

17           Respondent shall submit a certificate of completion to the board or its designee within five  
18 days after completing the course.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Nicole D. Tee-Irmer. 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: 03/30/2017

DocuSigned by:  
*Erin Kirksey*  
3A7AC43E3414D8...

ERIN ANNE KIRKSEY  
Respondent

I have read and fully discussed with Respondent Erin Anne Kirksey the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/30/17



NICOLE D. TEE-IRMER  
Attorney for Respondent

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**ENDORSEMENT**

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

Dated:

03/30/2017

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
ARMANDO ZAMBRANO  
Supervising Deputy Attorney General



ELYSE M. DAVIDSON  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 5815**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 ELYSE M. DAVIDSON  
Deputy Attorney General  
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*Attorneys for Complainant*  
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9208 9th Ave.  
13 Hesperia, CA 92345

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

14 **Pharmacy Technician Registration No. TCH**  
**65835**

15 Respondent.  
16

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about February 9, 2006, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 65835 to Erin Anne Kirksey ("Respondent"). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on May 31, 2017, 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. All section references are to the  
4 Business and Professions Code ("Code") unless otherwise indicated.

5 4. Section 4300 of the Code provides in pertinent part, that every license issued by the  
6 Board is subject to discipline, including suspension or revocation.

7 5. Section 4300.1 states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
9 operation of law or by order or decision of the board or a court of law, the placement  
10 of a license on a retired status, or the voluntary surrender of a license by a licensee  
11 shall not deprive the board of jurisdiction to commence or proceed with any  
12 investigation of, or action or disciplinary proceeding against, the licensee or to render a  
13 decision suspending or revoking the license.

11 **STATUTORY PROVISIONS**

12 6. Section 4059 of the Code states, in pertinent part, that a person may not furnish any  
13 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,  
14 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any  
15 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,  
16 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

17 7. Section 4301 of the Code states:

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

22 ...  
23 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
24 corruption, whether the act is committed in the course of relations as a licensee or  
25 otherwise, and whether the act is a felony or misdemeanor or not.

26 ...  
27 (h) The administering to oneself, of any controlled substance, or the use of any  
28 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.

...  
(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.

...

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

19 ...  
20 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting  
21 the violation of or conspiring to violate any provision or term of this chapter or of the  
22 applicable federal and state laws and regulations governing pharmacy, including  
23 regulations established by the board or by any other state or federal regulatory agency.

#### 24 COST RECOVERY

25 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
26 administrative law judge to direct a licentiate found to have committed a violation or violations of the  
27 licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of  
28 the case, with failure of the licentiate to comply subjecting the license to not being renewed or  
reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a  
stipulated settlement.

#### 29 DANGEROUS DRUGS

30 9. Section 4022 of the Code states  
31 "Dangerous drug" or "dangerous device" means any drug or device unsafe for  
32 self-use in humans or animals, and includes the following:  
33 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
34 prescription," "Rx only," or words of similar import.  
35 (b) Any device that bears the statement: "Caution: federal law restricts this device to  
36 sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the  
37 blank to be filled in with the designation of the practitioner licensed to use or order  
38 use of the device.  
(c) Any other drug or device that by federal or state law can be lawfully dispensed  
only on prescription or furnished pursuant to Section 4006.

1 10. "Quetiapine" is a generic name for "Seroquel" and is a dangerous drug pursuant to  
2 Business and Professions Code section 4022. Quetiapine is an atypical antipsychotic approved for  
3 the treatment of schizophrenia, bipolar disorder, and along with an antidepressant to treat major  
4 depressive disorder.

5 **FACTUAL BACKGROUND**

6 11. On and before May 29, 2015, Respondent was employed as a pharmacy technician at  
7 CVS/Pharmacy ("Pharmacy") in Big Bear Lake, CA. Respondent was employed at the Pharmacy for  
8 approximately two-and-a-half years.

9 12. On or about May 29, 2015, the Pharmacy Corporate Loss Prevention Department  
10 identified a potential loss of dangerous drugs and controlled substances and conducted interviews of  
11 their employees.

12 13. During the investigation, Respondent's admitted diverting seven (7) tablets of 100 mg  
13 quetiapine for her own personal use. Respondent claims she had a prescription at another pharmacy  
14 that had run out of refills, and that her prescriber previously denied refilling the prescription.  
15 Respondent further admits she "took the medication to help with my mental stability." "I felt like my  
16 mental health depended on taking the medication and I didn't thrust [sp] myself without it."  
17 Respondent admits consuming one tablet "almost every day."

18 14. On or about June 1, 2015, Respondent's employment with Pharmacy was terminated.

19 15. On or about June 3, 2015, the San Bernardino County Sheriff's Department in Big Bear  
20 Lake was called to make an incident report.

21 16. Respondent was charged with a misdemeanor violation of Penal Code section 484 [theft]  
22 but as part of a negotiated plea, on or about August 19, 2015, she was allowed to enter a plea of nolo  
23 contendere to an infraction violation of Penal Code section 415(2) [disturbing the peace] in the  
24 criminal proceeding entitled *People of the State of California v. Erin Kirksey* (Super. Ct. San  
25 Bernardino Count, 2015, No. MSB1503198).

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

3 17. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that  
4 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption with  
5 the intent to substantially benefit herself, or substantially injure another in that on in that on or about  
6 May 29, 2015, Respondent admitted the repeated theft of dangerous drugs from her employer.

7 a. Complainant refers to, and by reference incorporates, the allegations set forth above in  
8 paragraphs 11 through 16, inclusive, as though set forth fully.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unlawful Possession of a Dangerous Drug)**

11 18. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)  
12 and (o), on the grounds of unprofessional conduct, for violating Code section 4059, in that on or  
13 before May 29, 2015, Respondent stole and possessed a dangerous drug, quetiapine, without a valid  
14 prescription.

15 a. Complainant refers to, and by reference incorporates, the allegations set forth above in  
16 paragraphs 11 through 16, inclusive, as though set forth fully.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Dangerous Use of Dangerous Drug)**

19 19. Respondent is subject to disciplinary action under section 4301, subdivision (h), on the  
20 grounds of unprofessional conduct in that Respondent admittedly used a dangerous drug, to the  
21 extent or in a manner as to be dangerous or injurious to oneself in that on or before May 29, 2015,  
22 Respondent admitted consuming quetiapine, for which Respondent did not have a valid prescription.

23 a. Complainant refers to, and by reference incorporates, the allegations set forth above in  
24 paragraphs 11 through 16, inclusive, as though set forth fully.

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**FOURTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct / Violation of Licensing Chapter)**

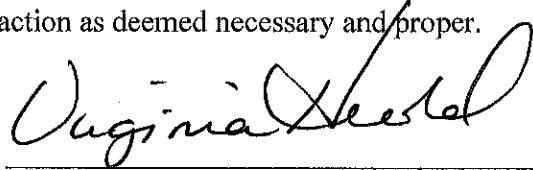
20. Respondent is subject to disciplinary action under section 4301, subdivision (o), in that Respondent committed acts of unprofessional conduct and violated provisions of the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 11 through 16, inclusive, as though set forth fully.

**PRAYER**

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 Pharmacy Technician Registration Number TCH 65835, issued to Erin Anne Kirksey;
- 2. Ordering Erin Anne Kirksey to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 6/10/16



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

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