

STATE OF ILLINOIS
ILLINOIS STATE POLICE MERIT BOARD

RECEIVED

APR 11 2016

**ILLINOIS STATE POLICE
MERIT BOARD**

IN THE MATTER OF:

TROOPER JESSICA KIRINCICH
I.D. No. 6279
1225 South Lorraine Road Apt 105
Wheaton, Illinois 60189

)
)
)
)
)
)

**Illinois State Police
Merit Board No. 15-3**

AMENDED COMPLAINT

NOW COMES Leo P. Schmitz, Director of the Illinois State Police, and pursuant to 20 ILCS 2610/14 and 80 Ill. Admin. Code § 150.575 states as follows:

STATEMENT OF FACTS

1. Jessica Kirincich (Respondent) is employed as a State Police Officer by the Illinois State Police (Department) and holds the rank of Trooper. At all times relevant to this Complaint, Respondent was assigned to District 2. Respondent has been employed by the Department since August 21, 2011.
2. On February 28, 2013, Respondent was assigned to District 2 on the night shift, working patrol from 10:00 p.m. to 8:00 a.m.
3. While on patrol on February 28, 2013, at approximately 7:45 a.m., District 2 received a call from the DuPage County Communications Center regarding a Department squad car traveling westbound on Geneva Road in DuPage County. The squad car was reported as striking vehicles and being all over the roadway. The squad car was identified as belonging to Respondent.

EXHIBIT

A

4. District 2 communications attempted to make contact with Respondent but was unable to get a response.
5. Respondent's driving was erratic; she obeyed some traffic signals but not others, did not remain in her designated lane, struck at least one vehicle without stopping, and continued to drive for several minutes before the final collision. Respondent's squad car finally came to a stop when it struck multiple vehicles stopped at a red light at the intersection of Geneva Road and Garry Avenue in Wheaton, Illinois.
6. One of the vehicles Respondent struck in that intersection was driven by a 16-year-old girl who was seriously injured by the crash.
7. Respondent has Type I Diabetes.
8. Respondent was unresponsive when paramedics arrived on the scene of the February 28, 2013, crash. The Glen Ellyn Fire Department had to extricate Respondent from her squad car. Paramedics from the Glen Ellyn Fire Department determined that Respondent became hypoglycemic and unresponsive while driving the Department's squad car.
9. This was not the first incident of the Respondent becoming hypoglycemic and unresponsive. On December 28, 2012, Respondent's sister called District 2 advising that she believed Respondent was having a diabetic reaction. Respondent was off-duty. The Lisle Fire Department found Respondent to be hypoglycemic and semi-conscious at her home.
10. Following the February 28, 2013, crash, Respondent's case was referred to the Department's Medical Review Board (MRB). The case was presented to the MRB on March 20, 2013.

11. The MRB recommended that Respondent be sent to an Independent Medical Evaluation to assess her ability to perform the essential functions of a Trooper.
12. Respondent provided a release from Dr. Mary Connelly, through her worker's compensation case, on April 1, 2013. The document listed Respondent's work status as "trial of full duty." See April 1, 2013, doctor's note attached hereto as Exhibit A.
13. The MRB sent Respondent to Dr. Shuja Valika, who evaluated Respondent on April 11, 2013. Dr. Valika deferred to Respondent's treating endocrinologist to determine her driving abilities. See May 7, 2013, letter attached hereto as Exhibit B.
14. Respondent did not provide any additional medical information to the Department until after the MRB rendered its recommendation.
15. Based on the information provided, the MRB determined that Respondent's medical condition presents a direct threat to the public which cannot reasonably be accommodated. The MRB further determined that Respondent was permanently unable to perform the essential functions of a sworn officer and could not continue to work as a Trooper. Respondent was informed of that decision in a letter dated September 19, 2013.
16. Based on the recommendation of the MRB, the September 19, 2013, letter presented Respondent with two options: (1) request a vocational reassignment to a code position as a reasonable accommodation through the Department's Office of Equal Employment Opportunity or (2) resign from the Department. See September 19, 2013, letter attached hereto as Exhibit C.
17. On November 19, 2013, Respondent, through her attorney, advised that she would participate in the reasonable accommodation process.

18. The Department explained, both in person and in writing, that if Respondent was interested in pursuing a vocational reassignment that she submit a CMS-100 form and a State of Illinois Reasonable Accommodation Request form. Respondent submitted both and indicated that she is seeking a reasonable accommodation of a “patrol change to a day shift.”
19. On December 2, 2013, Respondent provided a letter from her endocrinologist, Dr. Eillen Yohay, dated November 26, 2013. Dr. Yohay stated that “an assignment to a day shift would allow her to fully, completely, and safely perform all her Illinois State Trooper patrol duties.” See November 26, 2013, letter attached hereto as Exhibit D.
20. On December 6, 2013, the Department denied Respondent’s request for a reasonable accommodation to a sworn position on the day shift after determining that her request would not reasonably accommodate her in such a manner as to ensure she was able to perform the essential functions of a sworn officer. The Department encouraged the Respondent to continue with the reasonable accommodation process for vocational reassignment to a code position. See letter attached hereto as Exhibit E.
21. The job description for an Illinois State Police Trooper states that the Trooper must be able to work day, evening, or midnight hours on a rotation basis and “are subject to an emergency call-up on a 24 hour-a-day basis.” See Job Description attached hereto as Exhibit F.
22. On December 6, 2013, Respondent agreed to continue with the reasonable accommodation process and acknowledged her understanding that the Department would only be offering “civilian positions.” See December 6, 2013, letter attached hereto as Exhibit G.

23. On January 10, 2014, Respondent began working at District 15 on restricted duty while participating in the reasonable accommodation process.
24. The Department through the reasonable accommodation process initially located two code positions that the Respondent was qualified for, Truck Weighing Inspector (TWI) and Guard II.
25. Respondent interviewed for both positions. On December 18, 2014, she was offered both positions. On December 19, 2014 Respondent was again reminded, in writing, that if she declined to accept a position it would be considered a withdrawal from the reasonable accommodation process. See December 19, 2014, letter attached hereto as Exhibit H.
26. Respondent, on December 26, 2014, accepted the TWI position.
27. Before beginning the TWI position, a Criminal Intelligence Analyst I (CIA) position was identified for Respondent. Respondent was given the opportunity to interview for that position and did so on January 30, 2015.
28. Respondent was offered and accepted the CIA position. When presented with the Officer Action Request (OAR) to resign her sworn position and the Personnel Action Request (PAR) to begin her code position, Respondent declined to sign the forms.
29. Respondent was advised that her refusal to resign would result in withdrawal from the reasonable accommodation process.
30. Respondent did not execute either form and persisted in her refusal to resign.

COUNT I

UNSATISFACTORY WORK PERFORMANCE

31. Paragraphs 1.-27. of this Complaint are incorporated as if restated fully herein.

32. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.12., which states:

"Officers will maintain sufficient competency to properly perform their duties and assume the Responsibilities of their positions. Officers will perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the officer's rank, grade or position; the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; the failure to successfully complete mandatory annual training requirements; or absence without leave. An isolated incident can be evidence of incompetency and/or unsatisfactory performance. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations, directives or orders of the Department."

(First Offense – Level 1 Misconduct: Reprimand up to 3 days)

Respondent violated this rule in that she is unable to perform the essential functions of an Illinois State Trooper. Respondent is therefore unable to properly perform her duties and cannot carry out the functions and objectives of the Department in any sworn capacity.

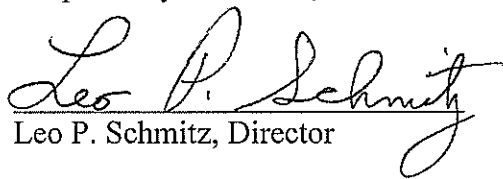
CERTIFICATION

A copy of Illinois State Police Department Directive ROC-002, Rules of Conduct, is attached and is certified by the Director as accurate, complete, and in full force and effect at the time the aforementioned acts were committed.

CONCLUSION

WHEREFORE, by reason of these facts and charges, I request the Illinois State Police Merit Board conduct a hearing in this matter and terminate Respondent from employment with the Illinois State Police.

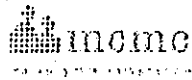
Respectfully submitted,


Leo P. Schmitz, Director

Illinois State Police
801 South Seventh Street, Suite 1100-S
Springfield, Illinois 62703

P:

Fax Transmission



Pages: 1

To: Channahon Clinic	From: Debra Michaud	Date: 04/01/2013
Fax #: 815-467-9823	DOI: 02/28/2013	
Injured Employee: Jessica Kirincich	Employer: State of Illinois	SSN: 357-76-2963
Claims Examiner: Chris Stalets	Date of Birth: 10/16/1985	Claim #: 130-13-80

Comments:

I understand the March office visit was not a follow up for the work injury and there are no future appointments scheduled. Please confirm Ms. Kirincich's work status:

Trial of Full duty

Thank you.
Debra Michaud, RN
888-665-4400; fax 866-869-4909

* Provider's Signature / Date:

Mary Connolly, MD 4-1-13
Required

Continuum / CareSys Provides the Medical Case Management for State of Illinois

Please fax back to Debra Michaud, Production at 866-869-4909

Please be advised that the Illinois Workers' Compensation Statute, Section 8a(see below), provides for access to medical reports and records and states as follows:

"Every hospital, physician, surgeon or other person rendering treatment or services in accordance with the provisions of this Section shall upon written request furnish full and complete reports thereof to, and permit their records to be copied by, the employer, the employee or his dependents, as the case may be, or any other party to any proceeding for compensation before the Commission, or their attorneys."

EXHIBIT

A

Associates in Endocrinology, Inc.

Shuja Valika, M.D., F.A.C.E.

Amer Rahman, M.D.

1975 LIN COL LANE, SUITE 10

ELGIN, ILLINOIS 60123

847-697-0770

847-697-0789 - FAX

ATTN: DR. JAY YAMBERT
REGARDING: JESSICA KIRNICH

5/7/13

Dear DR. YAMBERT, This letter is an addendum to my previously submitted reports. To summarize, A has long standing history of T1DM and has been on the insulin pump. A has recently had 2 hypoglycemic episodes - one resulted in a Multivan accident.

Recommendations:

1. A needs close and tight monitoring of her blood sugar including frequent pump downloads, using the glucose sensor etc.
2. A has an endocrinologist in Olympia Fields that she sees on a regular basis. She needs to follow up with her urgently.
3. Clearance for driving should be at the discretion of her treating endocrinologist.

Respectfully,

S. Valika

DR. SHUJA VALIKA,

EXHIBIT

B



ILLINOIS STATE POLICE
Division of Administration

Pat Quinn
Governor

September 19, 2013

Hiram Giau
Director

Trooper Jessica Kirincich
[REDACTED]

Dear Trooper Kirincich:

On April 1, 2013, your doctor submitted a release for a trial of full duty. Given your doctor's use of the term trial and its significance in the medical field, the Medical Review Board concluded this is not a release to full duty. Further, your medical condition presents a direct threat to the public which cannot reasonably be accommodated. Therefore, the Board has determined you are permanently unable to perform the essential functions of a sworn officer and cannot continue in your current employment status.

Given this decision, you have the following options: (1) request a vocational reassignment to a non-sworn position as a reasonable accommodation through the Illinois State Police, Office of Equal Employment Opportunity while working in a limited duty status or (2) resign your position after utilizing your accrued benefit time with the Illinois State Police. If you do neither by close of business October 18, 2013, the Illinois State Police will commence proceedings seeking your termination with the Illinois State Police Merit Board. Your prompt attention to this matter is appreciated.

Respectfully,

Marc R. Maton
Colonel

EXHIBIT

C

HORIZON
HEALTHCARE ASSOCIATES, S.C.

19550 Governors Highway Suite 2000
Flossmoor, IL 60422

708.957.8750 - P
708.957.8602 - F

FAMILY PRACTICE

Bruce A. Parisi, M.D.
Dwayne B. Buchanan, M.D.

INTERNAL MEDICINE

Karen N. Whitehorn, M.D.

NEPHROLOGY

Michael R. Peck, M.D.
Daniel A. Yohay, M.D.
Kenneth N. Cline, M.D.
Lourdes R. Terrado, M.D.
ENDOCRINOLOGY
Ilene Weintraub Yohay, M.D.

NURSE PRACTITIONERS

Agnes N. Harmon, ACNS BC, CNN
Board Certified Advanced Clinical Nurse Specialist
Certified Nephrology Nurse
Tina M. Murphy, FNP-BC
Board Certified Family Nurse Practitioner

November 26, 2013

Illinois State Police
Division of Administration
Medical Review Board
801 South Seventh Street
Springfield, IL 62703-2487

Re: Jessica Kirincich
DOB: 10-16-85

To the Members of the Medical Review Board:

I have been approach by my patient, Trooper Jessica Kirincich, regarding my medical opinion on her ability to perform her Trooper patrol duties if assigned to a day shift. I am presuming that you are making inquiry as to her physical ability to perform the tasks and duties on an Illinois Stat Trooper with regard to her medical condition, that being Type I Diabetes.

Trooper Kirincich has been my patient for several years and I have been treating her for Insulin Dependent Diabetes Mellitus. In the past Trooper Kirincich has done an excellent job and has worked diligently at controlling this condition. Trooper Kirincich informed me that she was involved in a motor vehicle accident as a result of extremely low blood sugar. This was an unfortunate and rare event. Trooper Kirincich and I have taken many measures and will continue to be proactive in the treatment of her condition to insure that this will not occur again.

Trooper Kirincich is currently utilizing a blood glucose sensor which monitors her blood sugars continuously, 24/7. Trooper Kirincich also has been advised to check her blood sugar with a meter several times a day to ensure the accuracy of the sensor. In addition Trooper Kirincich is also utilizing an insulin pump, which is the very best treatment currently available for Type I Diabetes, to insure control.

Since the motor vehicle accident I have been in constant contact with my patient, Trooper Kirincich, and have made adjustments to her insulin pump settings in order to avoid a recurrence of any affect that this condition might have on her duties as an Illinois State Police Trooper. Trooper Kirincich has an excellent understanding of her diabetes and is very capable of monitoring her condition.

EXHIBIT

D

It is my opinion, as her treating physician, with knowledge of her duties, responsibilities, and conduct required of her as an Illinois State Police Trooper, that an assignment to a day shift would allow her to fully, completely, and safely perform all her Illinois State Trooper patrol duties.

Should you have any additional questions please don't hesitate to contact me.

Professionally Submitted,

A handwritten signature in black ink, appearing to read 'Ilene Yohay', with a long horizontal flourish extending to the right.

Ilene Weintraub Yohay, M.D.



ILLINOIS STATE POLICE
Office of the Director

Pat Quinn
Governor

Hiram Grau
Director

December 9, 2013

Trooper Jessica Kirincich
2744 Windsor Drive, Apartment 209
Lisle, Illinois 60532

Sent via email: jkirincich025@yahoo.com

Dear Trooper Kirincich:

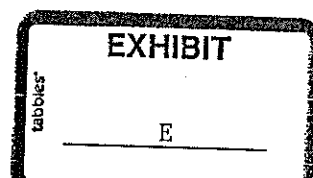
Your request for reasonable accommodation to a sworn position on the day shift is denied. The Department has determined your request will not reasonably accommodate you in such a manner so as to ensure you are able to perform the essential functions of a sworn officer.

Through the interactive process and our review of the events surrounding your traffic crash and your medical records, the Department has determined that the only reasonable accommodation available to you is a vocational reassignment to a code position. While you have not made such a request to date, the Department encourages you to continue to participate in the interactive process and pursue a vocational reassignment to a civilian position.

Please advise me at Rob_Sgambelluri@isp.state.il.us in writing by close of business, Monday, December 9, 2013, if you are willing to continue to work with the Department to identify a civilian position for which you are qualified.

Respectfully,

Lieutenant Robert Sgambelluri
EEO Officer



ILLINOIS STATE POLICE SWORN JOB DESCRIPTION

Date Created:		Date Revised: 06/01/00	
POSITION TITLE		RANKS OPEN TO	POSITION NUMBER
Trooper		N/A	5002
DIVISION	BUREAU/DISTRICT/OFFICE	SECTION	UNIT
Department Wide			
OFFICE LOCATION		REPORTS TO	
		Master Sergeant	

DESIGNATED SALARY	BARGAINING/INCLUSION	COMPENSATION LEVEL
YES _____	YES <u>X</u>	COMMENSURATE WITH RANK <u>X</u>
NO <u>X</u>	NO _____	DESIGNATED SALARY LEVEL _____

DEPUTY DIRECTOR APPROVAL	DATE	DIRECTOR APPROVAL	DATE

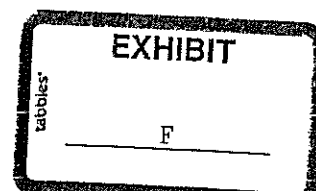
POSITION PURPOSE

This position is responsible for the investigation and enforcement of state laws with primary emphasis on traffic and criminal laws; provides assistance to the general public and governmental agencies; investigates accidents and provides care and immediate first aid to victims; patrols and regulates vehicular traffic through observation, enforcement, and visibility.

NATURE AND SCOPE

Reporting Structure: The Trooper reports to a Master Sergeant. The Master Sergeant reports to a Lieutenant. The Trooper position has no subordinate staff.

Working Conditions: The Trooper usually works alone in an assigned patrol vehicle and may be required to work day, evening, and midnight hours on a rotation basis. The Trooper must be flexible and capable of responding to any type of emergency or call for service during all types of weather conditions. The incumbent is required to stop violators and must be constantly alert to the potential danger inherent in every situation and violator encounter. A Trooper's every action is subject to public scrutiny. All Troopers are subject to an emergency call-up on a 24-hour-a-day basis. The incumbent is required to carry firearms and may use assigned firearms and other weapons in performance of police enforcement responsibilities. Also, the police enforcement responsibilities may include occasional physical labor, endurance, and be hazardous with regard to the physical or psychological well-being of the incumbent.



TITLE	POSITION NUMBER	PAGE
Trooper	5002	2

Functions: The Trooper is responsible for investigation of crimes and vehicle accidents, promoting and enforcing traffic safety, and numerous other incidents while working in an assigned patrol area. The incumbent must maintain an up to date knowledge of federal and state statutes and court cases relating to police work and must comply with department rules and regulations and take appropriate action to contain and remedy situations as required.

Latitude: Decisions which a Trooper makes independently are either on routine matters or in emergency situations where there is little or no time for deliberation. A Trooper is able to obtain direction from a Master Sergeant on how to proceed in non-routine situations. The Trooper encounters emergency or special situations requiring immediate decision making, i.e., crime in progress and situations which require knowledge of human behavior such as civil and domestic disturbances and mentally disturbed or intoxicated individuals.

Major Challenge: The major challenge of the Trooper's job is to provide for the safety and security of the public through the expertise of police and patrol techniques. Of additional importance is the need for investigatory skills of criminal activities and the responsibility to render assistance and aid in time of emergencies.

Contacts: The Trooper has frequent contact with the general public (violators and non-violators). Human relation skills are extremely critical to a Trooper's tasks. A Trooper is expected to remain calm and act in professional decorum during stressful and extremely dangerous situations. Other contacts require coordination and cooperation with various federal, state, county, and local agencies.

Knowledge and Experience: A Trooper must have met the minimal requirements set forth in Illinois State Police Merit Board - Certification for Appointment and have successfully completed the Basic Cadet Training course of instruction at the Academy. After graduation from the Academy and appointed as a probationary Trooper, the incumbent must successfully complete the field training program. Upon assignment to patrol duties, a Trooper's education may continue in specialized training, i.e., schools, seminars, and programs offered by the Department. A Trooper is updated on current changes in laws, court decisions, enforcement techniques, and is expected to exhibit this knowledge on an ongoing basis. The incumbent is required to possess a valid Illinois driver's license in the appropriate classification required by law.

Abilities: Requires ability to qualify with firearms as required by Department policy; to deliver credible testimony in a court of law; to conform to the Department's physical fitness and defensive tactics standards as required by policy; to operate and maintain assigned police vehicles and equipment. Requires a clear speaking voice, the ability to receive, understand, and act upon oral instructions through the use of a radio, and must be able to visually identify or describe persons, vehicles, locations, or other objects at a reasonable distance from a moving vehicle. Requires the ability to effectively and accurately document enforcement activities in handwritten reports.

PRINCIPAL ACCOUNTABILITIES

1. Enforces traffic laws by observing violations, inspecting driver and vehicle status and functioning, issuing warnings or citations, and towing vehicles. Explains traffic laws and procedures to the public.
2. Responds to accidents, determines the status of injured individuals, and administers and/or assists in administering first aid. Documents the facts of the incident, initiates removal of vehicle(s) from the scene and ensures continued flow of traffic.
3. Provides information and assistance to motorists, pedestrians and the general public. Provides advice and guidance to violators, juveniles and individual citizens which promote public safety and minimize harm to individuals and the general public. Identifies traffic hazards to assist in correcting problems.
4. Operates police radios and related communication equipment, listens and responds to radio communications for assistance and observes and identifies license plates/vehicles from varied distances in performance of police functions.

TITLE	POSITION NUMBER	PAGE
Trooper	5002	3

5. Operates a Department vehicle for assigned work activities, sometimes at high rates of speed under varying, stressful conditions to apprehend violators and responds to emergency calls for services.
6. Ensures assigned vehicles and equipment are properly maintained for optimum safety, service, and operation in compliance with ISP policy; routinely checks vehicle fluid levels, belts, hoses, windshield wipers, tire pressure/wear, and effects necessary maintenance.
7. Responds to all types of offenses including crimes in progress, civil matters and domestic disputes, property crimes, serious crimes, etc. Displays or uses departmentally issued ordnance to control or disperse violators (or animals) and to protect self and public.
8. Performs preliminary investigations such as observing suspicious individuals or areas; interviews witnesses, suspects or complainants; evaluates documents/evidence to determine their investigatory value, and exchanges information with other officers, supervisors, and investigative units.
9. Searches vehicles, persons, and premises for weapons, fruits of a crime, or contraband in order to effect an arrest, protect self and the public, and/or to obtain evidence; secures appropriate search/arrest warrants. Secures an incident scene and collects and preserves physical evidence.
10. Maintains documentation of the facts of an incident; prepares exhibits and documents for court cases to be presented by the prosecutor; delivers creditable testimony in a court of law; and appears to testify as a witness in official proceedings.
11. Participates in training and certification drills and classes to enhance job-related skills and abilities. Reads internal memos and bulletins to keep informed of new developments in departmental operational procedures.
12. Performs other duties as required or assigned.

LEONARD LAW OFFICES
203 North LaSalle, Suite 1620
Chicago, Illinois 60601
312.380.6634 (direct)
312.264.0671 (fax)
ewhite@leonardlawoffices.com

SENT VIA E-MAIL {rob_sgambelluri@isp.state.il.us}

December 6, 2013

Lieutenant Robert Sgambelluri
801 South Seventh Street, Suite 1100-S
Springfield, Illinois 62703-2487

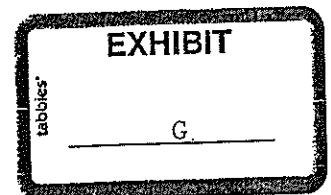
Re: Trooper Jessica Kirincich's Request for a Reasonable Accommodation

Dear Lt. Sgambelluri:

We received your letter on December 6, 2013 letter (though dated December 9 and requesting a decision by December 9) denying Trooper Kirincich's request for a reasonable accommodation to a sworn position on the day shift. Your letter provides no basis for the denial, and loosely refers to "review of ... medical records." As you know, there are many other facts that directly contradict this decision and which unequivocally support the reasonable accommodation sought by Trooper Kirincich. For example:

- Colonel Marc Maton's September 19, 2013 letter to Trooper Kirincich summarizes the Medical Review Board's¹ determination as relying on Trooper Kirincich's "doctor's use of the term trial." As I mentioned during our November 5, 2013 call, that doctor (Dr. Mary Connolly) was not Trooper Kirincich's doctor. Dr. Connolly is a family medicine physician who Trooper Kirincich visited for follow-up on her injuries sustained in the crash. Dr. Connolly was not aware of Trooper Kirincich's diabetic condition, her course of treatment, and was certainly not qualified to opine on her ability to perform her job duties with a move to the day shift. Indeed, Dr. Connolly was never opined that Trooper Kirincich could not be reasonably accommodated as she has requested.
- The ISP referred Trooper Kirincich to an Endocrinologist who might actually have been in a position to provide a medically competent decision – Dr. Shujauddin Valika. Dr. Valika's recommendation to ISP, was that "clearance for driving should be at the discretion of her treating Endocrinologist," i.e. Dr. Ilene Yohay.

¹ Further, it is our understanding that there is not a single licensed medical professional that sits on the Medical Review Board, much less an Endocrinologist. It is beyond logic that that Board could be making informed medical clearance decisions.



December 6, 2013
Lt. Robert Sgambelluri

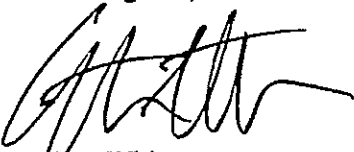
- Trooper Kirincich has also provided you with a November 26, 2013 letter from her actual treating physician, who opined that Trooper Kirincich can fully, completely, and safely perform her patrol duties with an assignment to a day shift. The ISP has chosen to ignore that opinion, which is all the more troubling as it is exactly in line with the recommendation of the ISP's own "second opinion" physician, Dr. Valika.
- Trooper Kirincich tried to provide the Medical Review Board with various pieces of medical evidence prior to her hearing – but all of those requests were denied. Thus the Medical Review Board, and the ISP, intentionally made a decision on Trooper Kirincich's medical condition based on a single sentence from a family practice physician.
- Finally, we understand that Troopers can request shift assignments once per year, with assignments granted, in large part, on seniority. There is no reasonable basis to conclude moving Trooper Kirincich to a day shift, under that kind of assignment scheme, would cause any burden whatsoever to the ISP.

In short, the ISP has provided nothing more than vague generalities, ignored competent medical opinions, and adopted a purported medical recommendation that is incomplete and without basis. In light of the ISP's continued discrimination against Trooper Kirincich for her serious medical condition and its failure to reasonably accommodate that condition, we will now file a Charge of Discrimination and thereafter immediately seek the issuance of a Notice of Right to Sue letter so that we can expeditiously litigate Trooper Kirincich's claims in federal court.

Nonetheless, Trooper Kirincich remains committed to mitigating her damages and, as such, will continue to participate in the interactive process and evaluate available civilian positions. Accordingly, please promptly provide us with a list of the positions that you are offering Trooper Kirincich or let us know when you would like to meet to discuss those jobs.

Please feel free to contact me with any questions.

Best Regards,



Ethan White

cc: Michael I. Leonard, Esq. {via email}
Trooper Jessica Kirincich {via email}



ILLINOIS STATE POLICE
Office of the Director

mailed
12/19/14

Pat Quinn
Governor

December 19, 2014

Hiram Grau
Director

Trooper Jessica Kirincich
1225 S. Lorraine Road, Apartment 105
Wheaton, Illinois 60189

Re: Reasonable Accommodation Process

Dear Trooper Kirincich:

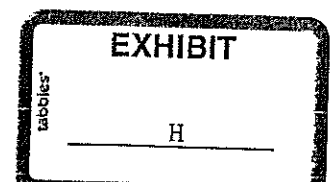
In November 2013, you elected to participate in the Reasonable Accommodation process through the Equal Employment Opportunity Office (EEO), and the Department initiated a search to locate a vacant funded position for which you remain qualified. As a result of the search, a Guard II position in the Protective Services Unit and a Truck Weighing Inspector position in District 5 was identified.

I understand you have been offered either position. This letter shall serve as notification that if you choose to decline both positions, the EEO Office will consider this a withdrawal from the Reasonable Accommodation process. As you have been previously advised, if you withdraw from the Reasonable Accommodation process, the Department will seek your termination. Please contact the EEO Office at 217/782-1292, if you have any additional questions. Thank you

Respectfully,

Lieutenant Christy White
EEO Chief

cc: Mr. Ethan White



**ILLINOIS STATE POLICE DIRECTIVE
ROC-002, RULES OF CONDUCT**

RESCINDS: ROC-002, 2005-020, revised 03-02-2005.	REVISED: 03-30-2007 2007-023
RELATED DOCUMENTS: PER-009, PER-032, PER-033	DISTRIBUTION: All employees maintaining an ISP Directives Manual All holders of the ISP Field Manual Office/desk copy
RELATED CALEA STANDARDS: 1.2.3, 1.3.1, 11.3.2., 12.1.2., 12.1.3., 26.1.1, 26.1.3, 26.1.5, 52.1.1, 61.1.8	

I. POLICY

The Illinois State Police (ISP) will establish rules of conduct by which officers of the Department will conduct themselves both on and off duty.

II. AUTHORITY

Pursuant to the authority granted to the Director of the ISP in 20 ILCS 2605/55a et seq., the following rules of conduct are promulgated for officers. Failure to comply may result in discipline as provided in the Rules and Regulations of the ISP Merit Board or the Collective Bargaining Agreement.

III. RULES AND REGULATIONS

NOTE: See Addendum 1, for the Discipline Schedule identifying the range of possible discipline for each level of misconduct.

III.A. Rules and regulations for all officers.

- III.A.1.** Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction.

On-duty petty or traffic offense - A violation of this rule is Level 1 Misconduct.

Misdemeanor Offense - A violation of this rule is Level 4 Misconduct.

Felony Offense - A violation of this rule is Level 7 Misconduct.

- III.A.2.** If an officer enters a plea of guilty, nolo contendere, stipulates to the facts or is found guilty of a violation of any law, or if there is any other judicial determination that will support any punitive measure taken against the officer, such action by the officer or judicial entity will be prima facie evidence of a violation of this directive.

On-duty petty or traffic offense - A violation of this rule is Level 1 Misconduct.

Misdemeanor Offense - A violation of this rule is Level 6 Misconduct.

Felony Offense - A violation of this rule is Level 7 Misconduct.

- III.A.3.** Officers are prohibited from posting bonds for any person as established in 725 ILCS 5/110-13.

A violation of this rule is Level 2 Misconduct.

- III.A.4. Officers will obey any lawful order of a superior. This will include orders relayed from a superior, by a person of the same or lesser rank, or by a telecommunicator via radio or electronic medium.

A violation of this rule is Level 3 Misconduct.

A violation of this rule for refusal to submit to an administrative breath test following a lawful order by a superior is Level 7 Misconduct.

A violation of this rule for failure to terminate involvement in a vehicular pursuit following a lawful order by a superior is Level 2 Misconduct.

- III.A.5. Officers who are given an otherwise proper order that is in conflict with a previous order, rule, regulation, or directive will respectfully inform the superior officer issuing the order of the conflict. If the superior officer issuing the order does not alter or retract the conflicting order, the order will stand. Under these circumstances, the responsibility for the conflict will be upon the superior officer. Officers will obey the conflicting order and will not be held responsible for disobedience of the order, rule, regulation or directive previously issued.

A violation of this rule is Level 1 Misconduct.

- III.A.6. Officers will not obey any order that they know or should know would require them to commit any illegal act. If in doubt as to the legality of an order, officers will request the issuing officer to clarify the order or to confer with higher authority.

A violation of this rule is Level 1 Misconduct.

- III.A.7. Officers will conduct themselves on and off duty in such a manner as to reflect favorably on the Department. Officers will not engage in conduct that discredits the integrity of the Department or its employees, or that impairs the operations of the Department. Such actions will constitute conduct unbecoming an officer.

A violation of this rule is Level 1 Misconduct.

- III.A.8. Officers will maintain a level of conduct in their personal and business affairs that is in keeping with the highest standards of the law enforcement profession. Officers will not participate in any conduct that impairs their ability to perform as law enforcement officers or causes the Department to be brought into disrepute.

A violation of this rule is Level 2 Misconduct.

- III.A.9. Officers will report for duty at the time and place required or report their inability to do so by notifying their supervisor or the appropriate headquarters office at least one hour prior to the beginning of their tour of duty. Officers will not leave their assigned duty posts during a tour of duty except when authorized by proper authority. Officers will report for duty physically and mentally fit to perform their duties or will immediately report to their supervisor any physical and/or mental condition(s) that would prevent them from performing their duties. They will be properly equipped and cognizant of information required for the proper performance of duty so that they may immediately assume their duties. Judicial subpoenas will constitute an order to report for duty under III.A.9.

A violation of this rule is Level 1 Misconduct.

- III.A.10. Officers will not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of this Department or any other governmental agency or individual authorized to conduct such an inquiry as to the condition of their health.

A violation of this rule is Level 2 Misconduct.

- III.A.11. Officers will remain awake while on duty. If unable to do so, they will notify their superior officer, who will determine the proper course of action.

A violation of this rule is Level 1 Misconduct.

- III.A.12. Officers will maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Officers will perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the officer's rank, grade or position; the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; the failure to successfully complete mandatory annual training requirements; or absence without leave. An isolated incident can be evidence of incompetency and/or unsatisfactory performance. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations, directives or orders of the Department.

A violation of this rule is Level 1 Misconduct.

- III.A.13. Officers will not solicit or accept from any person, business or organization any gift (including money, tangible or intangible personal property, food, beverage, loan, promise, service or entertainment) for the benefit of the officer or the Department, if it may reasonably be inferred that the person, business or organization:

- III.A.13.a. seeks to influence action of an official nature or seeks to affect the performance or nonperformance of an official duty.

A violation of this rule is Level 2 Misconduct.

- III.A.13.b. has an interest that may be substantially affected directly or indirectly by the performance or nonperformance of an official duty.

A violation of this rule is Level 2 Misconduct.

- III.A.14. Officers will not use their official position, official identification cards or stars for:

- III.A.14.a. personal or financial gain for themselves or others.

A violation of this rule is Level 3 Misconduct.

- III.A.14.b. obtaining privileges not otherwise available to them except in the performance of duty.

A violation of this rule is Level 2 Misconduct.

- III.A.14.c. avoiding consequences of illegal acts.

A violation of this rule is Level 2 Misconduct.

- III.A.15. Officers will not lend to another person their identification cards or stars or permit them to be photographed or reproduced without the approval of the Director.

A violation of this rule is Level 3 Misconduct.

- III.A.16. Officers will not authorize the use of their names, photographs or official titles that identify them as officers, in connection with testimonials or advertisements of any commodity or commercial enterprise, without the approval of the Director.

A violation of this rule is Level 1 Misconduct.

- III.A.17. Officers will not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service or commercial service (such as an attorney, ambulance or towing service, bondsman, mortician, etc.). In the case of ambulance or towing service when such service is necessary and the person needing the service is unable or unwilling to procure it or request assistance, officers will proceed in accordance with established Department procedures. This will not include any recommendation made in the performance of official duties that is in the best interest of the Department and does not provide benefit to the officer, or the officer's family and/or personal or business associates.

A violation of this rule is Level 1 Misconduct.

- III.A.18. Officers will be courteous to the public. Officers will be tactful and professional in the performance of their duties, will control their tempers, and exercise the utmost patience and discretion and will not engage in argumentative discussions even in the face of extreme provocation. In the performance of their duties, officers will not use coarse, violent, profane or insolent language or gestures, and will not express any prejudice concerning race, religion, politics, national origin, lifestyle or similar personal characteristics.

A violation of this rule is Level 1 Misconduct.

- III.A.18.a. Officers will not engage in any conduct that constitutes harassment or discrimination as herein defined.

The term discrimination within the context of enforcement action, includes any action that constitutes the provision of unequal protection under the law based on race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital or military (veteran) status.

The term harassment within the context of enforcement action, includes any physical conduct or verbal or nonverbal communication that may reasonably be interpreted as related to race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital or military (veteran) status that is unwelcome, uninvited, unreciprocated and usually, but not always repeated and such conduct is so severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's right to equal protection under the law.

The term sexual harassment within the context of enforcement action includes any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct by an individual is used as the basis for enforcement decisions affecting such individual.

A violation of this rule is Level 6 Misconduct.

- III.A.19. Officers will carry their identification cards (and star when carrying a weapon) on their person at all times, except when impractical or dangerous to their safety or to an investigation. They will furnish their name and identification number to any person requesting that information, when they are on duty or while holding themselves out as having an official capacity, except when the withholding of such information is necessary for the performance of police duties or is authorized by proper authority. Officers will make every effort to ensure the security and safekeeping of the identification and star at all times.

A violation of this rule is Level 1 Misconduct.

- III.A.20. When any person needs assistance or advice, or makes complaints or reports, either by telephone or in person, all pertinent information will be obtained in an official and courteous manner and will be properly and judiciously acted upon consistent with established Department procedures.

A violation of this rule is Level 1 Misconduct.

- III.A.21. Except as necessary to the performance of official duties, or where unavoidable because of other family relationships of the officer, officers will avoid regular or continuous associations or dealings with persons whom they know, or should know, are persons under criminal investigation or indictment, or who have a reputation in the community or the Department for present or past involvement in felonious or criminal behavior, or who have a felony conviction.

A violation of this rule is Level 4 Misconduct.

- III.A.22. Except in the performance of duty or while acting under proper and specific orders from a superior officer, officers will not knowingly run, enter, visit or frequent a house of prostitution, gambling house or establishment wherein the laws of the United States, the state, or the local jurisdiction are violated, solicit a prostitute or pimp, or patronize a prostitute or pimp.

A violation of this rule is Level 7 Misconduct.

- III.A.23. Officers will not engage or participate in any illegal sexual act or activity, including but not limited to prostitution and/or pimping.

A violation of this rule is Level 7 Misconduct.

- III.A.24. Officers will not publicly criticize or ridicule the Department, its policies or other employees by speech, writing or other expression, where such speech, writing or other expression is defamatory, obscene, unlawful, undermines the effectiveness of the Department, interferes with the maintenance of discipline or is made with reckless disregard for truth.

A violation of this rule is Level 2 Misconduct.

- III.A.25. Officers will not address public gatherings, appear on radio or television, prepare any articles for publication, act as correspondents to a newspaper or a periodical, release or divulge information, or any other matters of the Department while holding themselves out as representing the Department in such matters without the authority of the district commander or the functional equivalent, or their designee.

A violation of this rule is Level 2 Misconduct.

- III.A.26. Officers will not accept compensation, honorariums, or permit their expenses to be paid by sources other than the state of Illinois for speaking or writing assignments performed as part of their official duties unless specifically authorized by the Director or his/her designee.

A violation of this rule is Level 1 Misconduct.

- III.A.27. Officers will not engage in any strike. "Strike" includes the concerted failure to report for duty, willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work, or the absence in whole or in part from the full, faithful and proper performance of the duties of employment for the purposes of inducing, influencing or coercing a change in conditions, compensation, rights, privileges or obligations of employment. No officer will refuse to cross any picket line while on duty by whomever established.

A violation of this rule is Level 7 Misconduct.

- III.A.28. Officers will have personally-owned telephones (either a standard land-line telephone or a cellular telephone) in their residences and will immediately report any changes of telephone numbers or street addresses to their supervisor and to such other persons as may be appropriate.

A violation of this rule is Level 1 Misconduct.

- III.A.29. Officers will not interfere with cases being handled by other officers of the Department or by any other governmental agency unless:

- III.A.29.a. ordered to intervene by a superior officer.

- III.A.29.b. the intervening officer reasonably believes that a manifest injustice would result from failure to take immediate action. When intervention occurs, a report of such intervention will be made to a superior officer as soon as possible.

A violation of this rule is Level 3 Misconduct.

- III.A.30. Officers will not undertake any investigation or other official action not part of their regularly assigned duties without obtaining permission from a supervisor unless the exigencies of the situation require immediate police action.

A violation of this rule is Level 1 Misconduct.

- III.A.31. Officers will treat the official business, evidence, documents, information, e-mail, and photographs of the Department as confidential.

- III.A.31.a. Information regarding official business will be disseminated in accordance with established Departmental procedures. Officers may remove or copy official records or reports from a police installation only in accordance with established Departmental procedures.

A violation of this rule is Level 3 Misconduct.

- III.A.31.b. Officers will not access or divulge any confidential information, existing in any form, or the identity of any persons giving confidential information or release items of evidence, documents, photographs, etc., to members of the news media or others outside the criminal justice system without the express permission of the Director of the ISP, or his designee.

A violation of this rule is Level 7 Misconduct.

- III.A.31.c. Officers assigned to specialty units within the ISP or the criminal justice system may be required to attain federal security clearance or sign confidentiality agreements. Any breach of a security clearance or disclosure of information in violation of a confidentiality agreement is prima facie evidence of a violation of this directive.

A violation of this rule is Level 7 Misconduct.

- III.A.32. Officers will not:

- III.A.32.a. engage in political activities, campaign while off duty, or express political beliefs while:

- III.A.32.a.1) wearing a uniform or any part thereof that would identify the individual as an ISP officer or using property of the Department.

A violation of this rule is Level 1 Misconduct.

- III.A.32.a.2) displaying or otherwise leading others to believe he/she is carrying a firearm or a star.

A violation of this rule is Level 1 Misconduct.

- III.A.32.a.3) promoting him/herself as an ISP officer representing the interest of the Department.

A violation of this rule is Level 1 Misconduct.

- III.A.32.b. solicit political contributions from employees or non-employees during regular working hours.

A violation of this rule is Level 6 Misconduct.

- III.A.32.c. solicit or receive political contributions anytime on state property unless that property is rented or leased by private individuals or corporations.

A violation of this rule is Level 6 Misconduct.

- III.A.33. Officers will submit all necessary reports on time in accordance with established Department procedures.

A violation of this rule is Level 1 Misconduct.

Reports submitted by officers will be truthful and complete, and no officer will knowingly make false statements, charges or allegations in connection with any Department citations, warnings, assistance rendered, accident reports, field reports, investigative reports, computer entries or by any other means that creates an official record of the Department.

A violation of this rule is Level 5 Misconduct.

- III.A.34. Property or evidence that has been discovered, gathered or received in connection with Department responsibilities will be processed in accordance with established Department procedures.

A violation of this rule is Level 2 Misconduct.

- III.A.35. Officers will not convert to their own use, manufacture, conceal, falsify, destroy, remove, disguise, or alter any property or evidence in connection with an investigation or other police action, except in accordance with established Departmental procedures.

A violation of this rule is Level 4 Misconduct.

- III.A.36. Officers will not knowingly purchase or otherwise obtain control over property of any kind that has at any time previously been held, owned, purchased, seized, or in any way controlled by the Department or any Metropolitan Enforcement Group, task force, or other entity of which the Department or employees of the Department are participants, unless authorized by the Director to do so. This prohibition also applies to purchases made by family members or others that result in the officer obtaining full or partial control or use of the property.

A violation of this rule is Level 4 Misconduct.

- III.A.37. Officers will not make false accusations of a felony, misdemeanor, traffic, petty offense or an administrative charge. Officers will not withhold information or testimony, if to do so would mislead judicial or administrative proceedings. Officers will testify truthfully when under oath. However, officers will not be required to waive any applicable constitutional rights.

A violation of this rule is Level 7 Misconduct.

- III.A.38. Officers will utilize Department equipment only for its intended purpose, in accordance with established Department procedures and will not abuse or damage Department equipment. Officers will use reasonable care to avoid loss of Department equipment. All Department equipment issued to officers will be maintained in proper order.

A violation of this rule is Level 1 Misconduct.

- III.A.39. Officers will operate official vehicles in a careful and prudent manner, and will obey all laws and all Department directives pertaining to such operation.

- III.A.39.a. Loss or suspension of any driving license will be reported to the Department immediately.

A violation of this rule is Level 4 Misconduct.

- III.A.39.b. Officers will maintain a valid Illinois Drivers License at all times.

- III.A.39.b.1) Officers will not allow their Illinois Drivers License to expire.

A violation of this rule is Level 1 Misconduct if the Illinois Drivers License was expired for 30 days or less.

A violation of this rule is Level 2 Misconduct if the Illinois Drivers License was expired for more than 30 days.

- III.A.39.b.2) Officers will not allow their Illinois Drivers License to be suspended or revoked.

A violation of this rule is Level 3 Misconduct if the suspension or revocation for 60 days or less.

A violation of this rule is Level 6 Misconduct if the suspension or revocation was for more than 60 days.

- III.A.40. Upon the order of the Director, Colonel, or a superior officer, officers will truthfully answer all questions specifically directed and narrowly related to the scope of employment and operations of the Department that may be asked of them.

A violation of this rule is Level 4 Misconduct.

- III.A.41. Officers are required to truthfully answer questions by, or render material and relevant statements to, competent authority in a Department personnel investigation when said officer:

III.A.41.a. is not the subject of the investigation; or

III.A.41.b. is the subject of the investigation, but the allegation does not indicate that a recommendation for demotion, suspension of more than 15 days or discharge from the Department is probable; and/or

III.A.41.c. is the subject of the investigation and has been advised of his/her statutory administrative proceedings rights if the allegation indicates that a recommendation for demotion, suspension of more than 15 days or discharge from the Department is probable.

This rule shall not supersede said officer's constitutional rights concerning self-incrimination if the investigation indicates that criminal prosecution is likely against that officer.

A violation of this rule is Level 7 Misconduct.

- III.A.42. Officers will not mistreat persons who are in custody or are otherwise being detained. Officers will handle such persons in accordance with law and Department procedures.

A violation of this rule is Level 4 Misconduct.

- III.A.43. Officers will not use more force in any situation than is reasonably necessary under the circumstances. Officers will use force in accordance with law and Department procedures.

A violation of this rule is Level 4 Misconduct.

- III.A.44. Officers will not make any arrest, search or seizure that they know or should know is not in accordance with law and Department procedures.

A violation of this rule is Level 3 Misconduct.

- III.A.45. Officers on duty will maintain a neat, well-groomed appearance according to Department guidelines, except as otherwise allowed by policy.

A violation of this rule is Level 1 Misconduct.

- III.A.46. Officers, when in uniform, may use tobacco as long as:

III.A.46.a. they are not in a formation.

III.A.46.b. they do not have to leave their assignment or post for the sole purpose of doing so.

III.A.46.c. they are not engaged in traffic direction and control.

A violation of this rule is Level 1 Misconduct.

- III.A.47. Officers will not:

III.A.47.a. possess or use cannabis or any controlled substances, except when it is lawful to do so. When controlled substances are prescribed or other medication is being used, officers will notify their superior officer if the use will affect their job performance. A verified positive drug test obtained pursuant to Department directives will constitute prima facie evidence of a violation of this rule.

A violation of this rule is Level 7 Misconduct.

III.A.47.b. while on or off-duty, drive or be in physical control of a vehicle while under the influence of alcohol, any other drugs, intoxicating compounds, or any combination thereof.

A violation of this rule is Level 7 Misconduct.

III.A.47.c. operate a Department vehicle after consuming alcoholic beverages while on duty or in uniform unless such consumption is necessitated by the nature of a duty assignment. In any case, officers will not operate a Department vehicle after consuming alcoholic beverages to the point of impairment.

A violation of this rule is Level 7 Misconduct.

III.A.47.d. store or bring into any police facility or state vehicle alcoholic beverages, controlled substances, or cannabis derivatives, except those that are held as evidence, used for training or other official capacity.

A violation of this rule is Level 7 Misconduct.

- III.A.47.e. consume alcoholic beverages while on duty except in the performance of duty, and in those instances, never to the extent that the officer's ability to perform an official assignment or function is impaired.

A violation of this rule is Level 7 Misconduct.

- III.A.47.f. report for duty while under the influence of alcohol, any other drugs, intoxicating compounds, or any combination thereof to any degree whatsoever or with an odor of alcohol on their breath.

A violation of this rule is Level 7 Misconduct.

- III.A.47.g. consume alcoholic beverages, while off-duty, to the extent that it results in impairment, intoxication, or obnoxious or offensive behavior that discredits them or the Department, or renders the officers unfit to report for their next regular tour of duty.

A violation of this rule is Level 3 Misconduct.

- III.A.47.h. enter any establishment or place where the principal business is the sale of alcoholic beverages while on duty and/or in uniform, except in the performance of duty.

A violation of this rule is Level 2 Misconduct.

- III.A.48. Officers will reside within the state of Illinois and locate in a manner determined acceptable by their Colonel or his/her designee.

A violation of this rule is Level 3 Misconduct.

- III.A.49. Personal activities or associations of an officer that knowingly create an apparent or real conflict of interest with the conduct of official duties are prohibited. A "conflict of interest" arises when an officer's private interest, whether of a financial nature or otherwise, conflicts with the officer's impartial conduct of official duties and responsibilities.

A violation of this rule is Level 3 Misconduct.

- III.A.50. Officers will notify supervisory officers when they are exposed to information or receive an assignment involving a person or group with whom the officers have had social, business or other relationships of a nature that might give the appearance of impairing the officers' impartiality or independence in the conduct of an assignment or might impair Department operations.

A violation of this rule is Level 1 Misconduct.

- III.A.51. Any officer who has failed to report to work or receive approval for an absence for a period of five consecutive days and has not notified his/her immediate supervisor, immediate non-bargaining unit supervisor or the next available supervisor in the chain of command (whichever is appropriate) during that time period of the reason for the absence, or fails to return to work from an approved leave of absence according to the terms thereof without the prior approval of the Director, absent exigent circumstances, is deemed to have abandoned his/her job and forfeits their employment with the ISP.

A violation of this rule is Level 7 Misconduct.

- III.A.52. Officers will, upon being subpoenaed, attend court or quasi-judicial hearings. When appearing in court on Department matters or investigations, either the official uniform or clothing conforming to standards imposed on officers working in plain clothes will be worn. Weapons will not be displayed, unless wearing the uniform. Members will present a neat and clean appearance, avoiding any mannerism that might imply disrespect to the court.

A violation of this rule is Level 1 Misconduct.

- III.A.53. Any officer subpoenaed to testify for the defense in any trial or hearing, or against the Department in any proceeding, will notify his/her commander upon receipt of the subpoena, notice or request to do so.

A violation of this rule is Level 1 Misconduct.

- III.A.54. Any officer who has knowledge of actual or suspected criminal activities or is about to conduct a criminal investigation will notify a supervisory officer orally or in writing prior to enforcement action being taken or as soon as practical.

A violation of this rule is Level 1 Misconduct.

- III.A.55. Officers will not obstruct any investigation by destroying, altering, concealing or disguising real evidence, or by planting false evidence or furnishing false information to lawful authority.

A violation of this rule is Level 7 Misconduct.

- III.A.56. Officers will not induce a witness or any other person who has knowledge regarding any issue under investigation by the Department, or any other law enforcement agency, to make false statements, withhold information, conceal information, absent themselves or otherwise fail to cooperate with lawful investigating authorities.

A violation of this rule is Level 7 Misconduct.

- III.A.57. An officer will not volunteer to testify in civil actions and will not testify unless lawfully and properly subpoenaed or when directed to do so by the officer's commanding officer upon the advice of the Department legal section. If a subpoena arises out of Department employment or if the officer is informed they are a party to a civil action arising out of Department employment, the officer will immediately notify their commanding officer of the service or notification and of the testimony he/she is prepared to give. Whenever an officer is subpoenaed to testify in a civil or criminal proceeding other than Department related, the officer will appear and testify on his/her own time and will provide his/her own transportation. The appearance and testimony will be made in appropriate civilian attire. Members and employees will not enter into any financial understanding for appearances as witnesses prior to any trial except in accordance with current directives.

A violation of this rule is Level 2 Misconduct.

- III.A.57.a. Officers will notify their supervisor before giving a deposition or affidavit in a civil matter.

A violation of this rule is Level 1 Misconduct.

- III.A.58. Officers will not serve civil process or assist in civil cases unless the specific consent of the Director or Colonel is obtained.

A violation of this rule is Level 1 Misconduct.

- III.A.59. When an officer becomes aware they are the subject of an investigation by, or a criminal complaint to, a government agency other than the ISP, the officer will immediately notify his/her commanding officer/work unit supervisor, in writing, and inform him/her of the circumstances surrounding the incident being investigated, the agency conducting said investigation and what actions have been taken to resolve the matter. Officers must submit written notification to their supervisor immediately following any non-petty arrest, indictment or conviction (except minor traffic offenses).

A violation of this rule is Level 2 Misconduct.

- III.A.60. Whenever an officer is subpoenaed to testify in a civil or criminal proceeding other than Department related, the officer will appear and testify on his/her own time and will provide his/her own transportation. The appearance and testimony will be made in appropriate civilian attire.

A violation of this rule is Level 2 Misconduct.

- III.A.61. Officers will not engage in any conduct that constitutes sexual harassment as herein defined. The term sexual harassment, within the context of Department employment includes any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- III.A.61.a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or

A violation of this rule is Level 6 Misconduct.

- III.A.61.b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

A violation of this rule is Level 6 Misconduct.

- III.A.61.c. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

A violation of this rule is Level 4 Misconduct.

- III.A.62. Officers will not engage in any conduct that constitutes hostile work environment harassment as herein defined. The term hostile work environment harassment within the context of Department employment, includes any physical conduct or verbal or non-verbal communication that may reasonably be interpreted as related to race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital or military (veteran) status that is unwelcome, uninvited, unreciprocated and usually, but not always, repeated and such conduct is so severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

A violation of this rule is Level 4 Misconduct.

- III.A.63. Officers will not engage in any conduct that constitutes discrimination as herein defined. The term discrimination within the context of Department employment, includes:

- III.A.63.a. Denial of promotion(s), advancement, training or other employment opportunities based on race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital, or military (veteran) status.

A violation of this rule is Level 6 Misconduct.

III.A.63.b. Lowered performance rating(s) or evaluations, demotion, suspension, discharge, or other disciplinary or personnel actions based on race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital, or military (veteran) status.

A violation of this rule is Level 6 Misconduct.

III.A.64. Officers will not engage in conduct that is in violation of the policies and procedures established in directives PER-009, "Equal Employment Opportunity," PER-032, "Discrimination and Harassment," or PER-033, "Sexual Harassment."

A violation of this rule is Level 4 Misconduct.

III.A.65. Officers will use video/audio recording equipment in accordance with established Department procedures.

A violation of this rule is Level 2 Misconduct.

III.A.66. Officers will use Mobile Data Computer (MDC) systems in accordance with established Department procedures.

A violation of this rule is Level 2 Misconduct.

III.B. Rules and regulations for supervisory personnel.

III.B.1. Supervisory personnel are responsible for subordinates' adherence to Department rules, regulations, policy, orders, directives, and procedures and will take reasonable action to ensure compliance.

III.B.2. Supervisors are responsible and accountable for the maintenance of discipline and will provide leadership, supervision and example to ensure the efficiency of Department operations.

III.B.3. Supervisors are responsible for the job performance of all subordinates placed under them.

III.B.4. Authority and functions may be delegated to subordinates, but responsibility remains with the supervisor who made the assignment.

III.B.5. Supervisory personnel are responsible for all job related failures on the part of their subordinates when the supervisor was aware or reasonably should have been aware of the failure or the potential for failure and did not take the appropriate action to correct the deficiency.

| Indicates new or revised items.

-End of Directive-

**ILLINOIS STATE POLICE DIRECTIVE
ROC-002, RULES OF CONDUCT
ADDENDUM 1, DISCIPLINE SCHEDULE**

RESCINDS: ROC-002, Addendum 1, 2005-020, revised 03-02-2006.	REVISED: 03-30-2007 2007-023
RELATED DOCUMENTS: PER-009, PER-032, PER-033	DISTRIBUTION: All employees maintaining an ISP Directives Manual All holders of the ISP Field Manual Office/desk copy
RELATED CALEA STANDARDS: 1.2.3, 1.3.1, 11.3.2., 12.1.2., 12.1.3., 26.1.1, 26.1.3, 26.1.5, 52.1.1, 61.1.8	

| Any discipline over 30 days, and up to and including termination, is determined by the ISP Merit Board.

The discipline at each Level and Offense reflects the range of discipline that may be imposed.

| The word "days" refers to "days of suspension." The word "Termination" means "up to and including termination."

	First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense	Sixth Offense	Seventh Offense
Level 1	Reprimand - 3 days	1-10 days	5-30 days	15-30 days	31-90 days	60-180 days	90 days - Up to Termination
Level 2	4-10 days	15-30 days	31-45 days	31-45 days	90-180 days	Up to Termination	
Level 3	15-30 days	31-45 days	60-90 days	60-90 days	Up to Termination		
Level 4	31-45 days	60-90 days	90-180 days	90-180 days	Up to Termination		
Level 5	60-90 days	90-180 days	Up to Termination	Up to Termination	Up to Termination		
Level 6	90-180 days	Up to Termination	Up to Termination	Up to Termination	Up to Termination	Up to Termination	
Level 7	Up to Termination	Up to Termination	Up to Termination	Up to Termination	Up to Termination	Up to Termination	Up to Termination

| Shaded boxes indicate discipline that may be imposed by the ISP Merit Board.

| Indicates new or revised items.

-End of Addendum-

Trooper Jessica Kirincich
Medical Review Board Recommendation
June 21, 2013

Trooper Jessica Kirincich is assigned to patrol in District 2 on the midnight shift. She is 27 years old (10-16-1985) with almost two years of service (8-21-2011). Trooper Kirincich has been a diabetic since she was eight years old. She is currently using 512 time due to an on duty crash. The Division of Operations requested her case come before the Medical Review Board based on the following incidents. On December 28, 2012, District 2 received a call from Trooper Jennifer Kirincich, Jessica's sister, advising of a call from their mother who suspected Jessica was having a diabetic reaction by the sound of her voice. The Lisle Fire Department was called and responded to her home. Trooper Kirincich was semi-conscious and hypoglycemic. Once treated, she became responsive and was *not* transported to the hospital. Lieutenant Michael Kraft and Trooper Michael Young responded to her residence after she received treatment to ensure her well-being.

On February 28, 2013, District 2 received a call from the DuPage County Communications Center reporting an ISP squad traveling westbound on Geneva Road. The squad was observed striking the curb and being all over the roadway. District 2 attempted to contact Trooper Kirincich but she did not respond. DuPage County advised the squad had struck other vehicles as it continued down the road. DuPage dispatched squad cars to intercept the out-of-control ISP squad. ISP was then advised Trooper Kirincich was involved in a serious personal injury crash at the intersection of Geneva and Garry Avenue. Captain Windle responded to the scene. At the hospital, Trooper Kirincich stated she believed her diabetic pump had failed. She also advised ten days earlier, her pump had been re-calibrated which may have been a factor in its failure to dispense insulin. It was later determined Trooper Kirincich was involved in three separate crashes involving seven vehicles in a four-block area. On March 20, 2013, the Board recommended sending Trooper Kirincich for an Independent Medical Evaluation to assess her medical condition in relation to her abilities to perform the essential functions of a Trooper.

Dr. Yambert was contacted to locate a physician for this evaluation. Dr. Shuja Valika evaluated Trooper Kirincich on April 11, 2013. His plan only indicated she would need to be closely monitored. He would not answer specific questions nor would he complete the medical evaluation form as requested. Instead, he deferred all of our concerns to her treating physician. Dr. Yambert intervened on our behalf but with little success. He again deferred to her treating endocrinologist to determine her driving abilities and returned a blank but signed copy of the medical evaluation form. Board members discussed obtaining another opinion. An occupational medicine doctor was recommended. Mr. Ryan advised it will be difficult to get clear cut answers from any doctor because diabetes is a disease that is life long and there will always be risks. On May 29, 2013, the Board recommended a review of her medical records from the Academy before moving forward. This case will be updated at the June meeting.

She is still a direct threat and the Department cannot continue to allow her to be in a squad car given the risks involved. Her doctor's release dated April 1, 2013, stated she can return to a "trial full duty." A special meeting was held on Friday, June 21, 2013, and returning on a trial basis was discussed. The Board agreed a trial of full duty is not a full release.

Recommendation: The Board recommended Trooper Kirincich be referred to the EEO Office to begin the Reasonable Accommodation process. This case will be continued for 60 days.

☒ I approve the above Medical Review Board recommendation.

☐ I do not approve the Medical Review Board recommendation.

8/15/13
Date

Hiram Grau
Hiram Grau, Director

EXHIBIT

B