

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

In The Matter of the Accusation Against:

Case No. 2716

NIKUNJ C. PATEL  
123 Oceano Avenue #11  
Santa Barbara, CA 93109

Pharmacy Technician Registration  
No. TCH 28658

Respondent

**ORDER DENYING RECONSIDERATION**

The Board of Pharmacy having read and considered respondent's petition for reconsideration of the board's decision effective February 10, 2005, NOW THEREFORE IT IS ORDERED that the petition for reconsideration is denied.

IT IS SO ORDERED this 7<sup>th</sup> day of February, 2005.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

STANLEY GOLDENBERG  
Board President

1 BILL LOCKYER, Attorney General  
of the State of California  
2 STEPHEN S. HANDIN, State Bar No. 71100  
Supervising Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-2538  
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:  
12 NIKUNJ C. PATEL  
313 W. 64th Street  
13 Inglewood, CA 90302  
14 Pharmacy Technician License No. TCH 28658  
15 Respondent.

Case No. 2716  
OAH No. L-2004060131  
**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

16  
17 In the interest of a prompt and speedy resolution of this matter, consistent with the  
18 public interest and the responsibility of the Board of Pharmacy of the Department of Consumer  
19 Affairs the parties hereby agree to the following Stipulated Surrender of License and Order which  
20 will be submitted to the Board for approval and adoption as the final disposition of the  
21 Accusation with respect to Nikunj C. Patel.

22 PARTIES

23 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of  
24 Pharmacy (Board). She brought this action solely in her official capacity and is represented in  
25 this matter by Bill Lockyer, Attorney General of the State of California, by Stephen S. Handin,  
26 Supervising Deputy Attorney General.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in  
3 Accusation No. 2716, agrees that cause exists for discipline and hereby surrenders his Pharmacy  
4 Technician License No. TCH 28658 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation he enables the  
6 Board to issue an order accepting the surrender of his Pharmacy Technician License without  
7 further process.

8 CONTINGENCY

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

19 11. The parties understand and agree that facsimile copies of this Stipulated  
20 Surrender of License and Order, including facsimile signatures thereto, shall have the same force  
21 and effect as the originals.

22 12. In consideration of the foregoing admissions and stipulations, the parties  
23 agree that the Board may, without further notice or formal proceeding, issue and enter the  
24 following Order:

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1 ORDER

2 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 28658,  
3 issued to Respondent Nikunj C. Patel is surrendered and accepted by the Board of Pharmacy.

4 13. Respondent shall lose all rights and privileges as a Pharmacy Technician  
5 in California as of the effective date of the Board's Decision and Order.

6 14. Respondent shall cause to be delivered to the Board both his wall and  
7 pocket license certificate on or before the effective date of the Decision and Order.

8 15. The surrender of Respondent's Pharmacy Technician License and the  
9 acceptance of the surrendered license by the Board shall constitute the imposition of discipline  
10 against Respondent. This stipulation constitutes a record of the discipline and shall become a  
11 part of Respondent's license history with the Board.

12 16. Respondent fully understands and agrees that if he ever files an application  
13 for licensure or a petition for reinstatement in the State of California, Respondent must wait at  
14 least three years from the effective date of this Order. The Board shall treat it as a petition for  
15 reinstatement. Respondent must comply with all the laws, regulations and procedures for  
16 reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges  
17 and allegations contained in Accusation No. 2716 shall be deemed to be true, correct, and  
18 admitted by Respondent when the Board determines whether to grant or deny the application or  
19 petition.

20 17. Respondent shall pay the Board its costs of investigation and enforcement  
21 in the amount of \$1,000.00 prior to issuance of a new or reinstated license.

22  
23 ACCEPTANCE

24 I have carefully read the above Stipulated Surrender of License and Order and  
25 have fully discussed it with my attorney, Allen D. West, Esq. I understand the stipulation and the  
26 effect it will have on my Pharmacy Technician License. I enter into this Stipulated Surrender of

27 ///

28 ///

1 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
2 Decision and Order of the Board of Pharmacy.

3 DATED: \_\_\_\_\_.

4

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\_\_\_\_\_  
NIKUNJ C. PATEL  
Respondent

6

7

8 DATED: \_\_\_\_\_.

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\_\_\_\_\_  
ALLEN D. WEST, Esq.  
Attorney for Respondent

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14

ENDORSEMENT

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16

The foregoing Stipulated Surrender of License and Order is hereby respectfully  
submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

17

DATED: \_\_\_\_\_.

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BILL LOCKYER, Attorney General  
of the State of California

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\_\_\_\_\_  
STEPHEN S. HANDIN  
Supervising Deputy Attorney General

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Attorneys for Complainant

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

In the Matter of the Accusation Against:

NIKUNJ C. PATEL  
313 W. 64th Street  
Inglewood, CA 90302

Pharmacy Technician License No. TCH 28658

Respondent.

Case No. 2716

OAH No. L-2004060131

**DECISION AND ORDER**

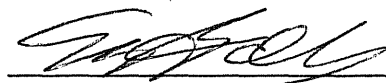
Pursuant to the Agreement of the Parties, as recited in the transcript of the October 4, 2004, proceedings, the attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 10, 2005.

It is so ORDERED January 11, 2005.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
\_\_\_\_\_  
STANLEY W. GOLDENBERG  
Board President

**Exhibit A**  
**Accusation No. 2716**



1 BILL LOCKYER, Attorney General  
of the State of California  
2 STEPHEN S. HANDIN, State Bar No. 71100  
Supervising Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
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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. 2716

12 NIKUNJ C. PATEL  
13 313 W. 64th Street  
Inglewood, CA 90302

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

14 Pharmacy Technician License No. TCH 28658

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Patricia F. Harris (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
21 Affairs (Board).

22 2. On or about March 12, 1999, the Board issued Pharmacy Technician  
23 License No. TCH 28658 to Nikunj C. Patel (Respondent). The Pharmacy Technician License  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 June 30, 2004, unless renewed.

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28 ///

JURISDICTION

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2           3.       This Accusation is brought before the Board, under the authority of the  
3 following laws. All section references are to the Business and Professions Code unless otherwise  
4 indicated.

5           4.       Section 4300 permits the Board to take disciplinary action to suspend or  
6 revoke a license issued by the Board.

7           5.       Section 4301 states:

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

12           ...

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

16           ...

17           "(j) The violation of any of the statutes of this state or of the United States  
18 regulating controlled substances and dangerous drugs.

19           ...

20           "(l) The conviction of a crime substantially related to the qualifications, functions,  
21 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
22 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
23 substances or of a violation of the statutes of this state regulating controlled substances or  
24 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
25 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
26 The board may inquire into the circumstances surrounding the commission of the crime, in order  
27 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
28 or dangerous drugs, to determine if the conviction is of an offense substantially related to the

1 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty  
2 or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
3 meaning of this provision. The board may take action when the time for appeal has elapsed, or  
4 the judgment of conviction has been affirmed on appeal or when an order granting probation is  
5 made suspending the imposition of sentence, irrespective of a subsequent order under Section  
6 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a  
7 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
8 or indictment.”

9 6. Section 4060 states, in pertinent part:

10 "No person shall possess any controlled substance, except that furnished to a  
11 person upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.”

12 7. California Code of Regulations, title 16, section 1770, states:

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

19 8. Section 125.3, subdivision (a), states, in pertinent part:

20 "Except as otherwise provided by law, in any order issued in resolution of a  
21 disciplinary proceeding before any board within the department . . . the board may request the  
22 administrative law judge to direct a licentiate found to have committed a violation or violations  
23 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
24 enforcement of the case.”

25 9. CONTROLLED SUBSTANCES/DANGEROUS DRUGS

26 a. Alprazolam is a Schedule IV controlled substance as designated by Health  
27 and Safety Code section 11057 and is categorized as a dangerous drug pursuant to section 4022  
28 of the Code.





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2. Ordering Nikunj C. Patel to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 4/20/04

P. J. Harris  
PATRICIA F. HARRIS  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant

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prepared by cak (03/04)