

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 ELYSE M. DAVIDSON
Deputy Attorney General
4 State Bar No. 285842
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2533
6 Facsimile: (213) 897-2804
Attorneys for Complainant
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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:
12 **GINA NICOLE BRITO**
39440 Harvard Ln.
13 Palmdale, CA 93551
14 **Pharmacy Technician Registration No.**
TCH 115393
15
16 Respondent.

Case No. 5544
A C C U S A T I O N

17
18 Complainant alleges:

19 **PARTIES**

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

22 2.I On or about September 2, 2011, the Board issued Pharmacy Technician Registration
23 No. TCH 115393 to Gina Nicole Brito (“Respondent”). The Pharmacy Technician Registration
24 expired on July 21, 2015, and was canceled on November 1, 2015.

25 **JURISDICTION**

26 3.I This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code (“Code”) unless otherwise
28 indicated.

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

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5 "(j) The violation of any of the statutes of this state, or any other state, or of the United
6 States regulating controlled substances and dangerous drugs. . . ."

7 **COST RECOVERY**

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

14 **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

15 10. Methamphetamine is a Schedule II controlled substance pursuant to Health and
16 Safety Code section 11055, subdivision (d)(2).

17 11. Heroin is a Schedule I controlled substance pursuant to Health and Safety Code
18 section 11054, subdivision (c)(11).

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

21 12. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
22 on the grounds of unprofessional conduct in that Respondent committed acts involving moral
23 turpitude, dishonesty, fraud, deceit, or corruption, as follows:

24 a. On or about January 20, 2014, Los Angeles County Sheriff's Department deputies
25 responded to a report of a child being exposed to drug use at an apartment. Upon arrival, the
26 officers saw a man come to the front door and then quickly run to a bedroom and shut the door.
27 After several attempts to get the resident's attention, Respondent answered with a baby in her
28 arms. The officers asked Respondent to open the door, but she refused and kept looking back

1 towards the bedroom where the man entered. The officers informed Respondent that they need to
2 check on the child's welfare and to see the man in the bedroom. Respondent refused to cooperate
3 and stated the man was not in the apartment. After several minutes, Respondent allowed the
4 officer to search the apartment. After conducting a search, the officers learned that the man fled
5 through an open window. The officers observed that the bedrooms had large amounts of
6 clothing, trash, and other items piled up on the floors and in the baby's crib. They also found a
7 glass pipe with a white crystalline residue resembling methamphetamine, a miniature scale, and
8 numerous empty plastic "bindle baggies," commonly used to package controlled substances. The
9 officers further observed that Respondent appeared to be under the influence of a controlled
10 substance as she was unable to stand still, was extremely nervous, and her speech was rapid.
11 Respondent informed the officers that she probably have drugs in her and refused to submit to a
12 urine test. Respondent was arrested for violating Penal Code section 273A, subdivision (a) [child
13 endangerment]. Furthermore, a misdemeanor complaint was filed against Respondent for
14 violating Health and Safety Code section 11550, subdivision (a) [under the influence of a
15 controlled substance, to wit, methamphetamine], in a criminal proceeding entitled *The People of*
16 *the State of California v. Gina Nicole Brito* (Super. Ct. L.A. County, 2014, No. 4AV00440). The
17 Court ordered Respondent to enroll in an outpatient substance abuse program. On or about
18 August 27, 2014, after the proof of completion of the drug diversion program was filed, the Court
19 dismissed the case pursuant to Penal Code section 1385.

20 b. On or about February 12, 2014, Los Angeles Sheriff's Department deputies received
21 information that a man was selling narcotics from an apartment that was rented to Respondent.
22 While conducting a surveillance of the apartment, the officers observed vehicle traffic consistent
23 with the sales of narcotics. The officers entered the apartment to conduct a parole search on the
24 man. The man walked quickly into a bedroom and threw the items out the window. The officers
25 recovered nine plastic binders (a plastic bag used to package a controlled substance) containing
26 heroin that the man threw out the window. The officers also found a handwritten rental
27 agreement between Respondent and the man. Respondent informed the deputies that the man
28 was living with her and she knew that he was selling heroin. She further told the deputies that

1 she received \$300 from the man because she needed money. Respondent was arrested and a
2 felony complaint was filed against Respondent for violating Health and Safety Code section
3 11366 [open and maintain a place for the purpose of selling, giving away, and using a controlled
4 substance, to wit, heroin] in a criminal proceeding entitled *The People of the State of California*
5 *v. Gina Nicole Brito* (Super. Ct. L.A. County, 2014, No. MA062119). On or about April 17,
6 2014, the Court dismissed the case pursuant to Penal Code section 1385.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Use of Controlled Substance)**

9 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),
10 on the grounds of unprofessional conduct, in that on or about January 20, 2014, Respondent
11 administered methamphetamine, a controlled substance, to herself to the extent or in a manner as
12 to be dangerous or injurious to herself or others. Complainant refers to and by this reference
13 incorporates the allegations set for above paragraph 11, subdivision (a), inclusive, as though set
14 forth fully.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct - Violating Drug Statutes)**

17 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
18 on the grounds of unprofessional conduct, in that Respondent violated statutes regulated
19 controlled substances. Complainant refers to and by this reference incorporates the allegations
20 set for above paragraph 11, and all subparagraphs, inclusive, as though set forth fully.

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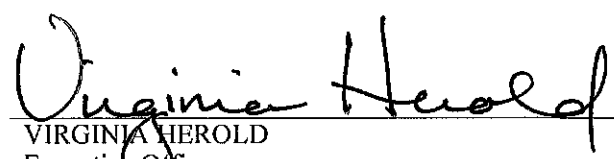
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PRAAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 115393, issued to Gina Nicole Brito;
2. Ordering Gina Nicole Brito to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 1/21/16



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

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