

1 KAMALA D. HARRIS
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1188
6 Facsimile: (415) 703-5480
E-mail: Nicholas.Tsukamaki@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5850

12 **GINA CORINE MARTINEZ**
13 **a.k.a. GINA CORINE ARREOLA**
14 **2945 Trinity River Court**
15 **San Jose, CA 95111**

A C C U S A T I O N

16 **Pharmacy Technician Registration No. TCH**
17 **57099**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. 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.

22 2. On or about June 30, 2004, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 57099 to Gina Corine Martinez a.k.a. Gina Corine Arreola
24 (Respondent). The Pharmacy Technician Registration expired on November 30, 2015, and has
25 not been renewed.

26 ///

27 ///

28 ///

1 **JURISDICTION**

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

5 4. Section 4011 of the Code provides that the Board shall administer and enforce both
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
7 Act [Health & Safety Code, § 11000 et seq.].

8 5. Section 4300.1 of the Code states:

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

14 **STATUTORY PROVISIONS**

15 6. Section 4301 of the Code provides, in pertinent part:

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

19 ...

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

23 “(g) Knowingly making or signing any certificate or other document that falsely represents
24 the existence or nonexistence of a state of facts.

25 ...

26 “(l) The conviction of a crime substantially related to the qualifications, functions, and
27 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
28 (commencing with Section 801) of Title 21 of the United States Code regulating controlled

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

15 ...”

16 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
17 revoke a license on the ground that the licensee has been convicted of a crime substantially
18 related to the qualifications, functions, or duties of the business or profession for which the
19 license was issued.

20 COSTS

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

27 ///

28 ///

1 **FACTUAL BACKGROUND**

2 9. On or about December 15, 2015, in a criminal proceeding entitled *People v. Gina*
3 *Corine Arreola*, Case Number SCD261439, in San Diego County Superior Court, a jury found
4 Respondent guilty of violating six (6) counts of Penal Code section 470, subdivision (d) (forgery);
5 four (4) counts of Penal Code section 118, subdivision (a) (perjury by declaration); two (2) counts
6 of Penal Code section 115, subdivision (a) (filing a false instrument); and one (1) count of Penal
7 Code section 530.5, subdivision (a) (using the personal identifying information of another).
8 Imposition of sentence was suspended and Respondent was placed on five (5) years probation and
9 ordered to serve 180 days in jail.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Commission of Act Involving Moral Turpitude, Dishonesty, Fraud, and/or Deceit)**

12 10. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
13 Code in that she committed acts involving moral turpitude, dishonesty, fraud, deceit, and/or
14 corruption. The circumstances of Respondent's conduct are set forth above in paragraph 9.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Making or Signing a Document that Falsely Represents the Existence or Nonexistence of a**
17 **State of Facts)**

18 11. Respondent is subject to disciplinary action under section 4301, subdivision (g) of the
19 Code in that she knowingly made and/or signed a certificate or other document that falsely
20 represented the existence or nonexistence of a state of facts. The circumstances of Respondent's
21 conduct are set forth above in paragraph 9.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Criminal Conviction)**

24 12. Respondent is subject to disciplinary action under sections 490 and/or 4301,
25 subdivision (l) of the Code in that she was convicted of a crime substantially related to the
26 qualifications, functions, and duties of a pharmacy technician. The circumstances of
27 Respondent's conduct are set forth above in paragraph 9.

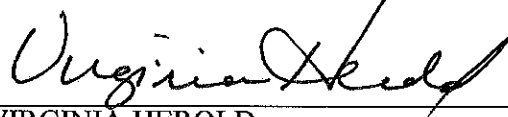
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 57099 issued to Gina Corine Martinez a.k.a. Gina Corine Arreola;
2. Ordering Gina Corine Martinez a.k.a. Gina Corine Arreola 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: 8/29/16 
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2016200947
41578328.docx