

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

In the Matter of the Accusation Against:

Case No. 5399

**NILSA MARIA GAMBOA**  
2771 Golden Avenue  
Long Beach, CA 90806  
**Pharmacy Technician Registration No. TCH 11868**

Respondent.

**DECISION AND ORDER**

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 at 5:00 p.m. on July 8, 2016.

It is so ORDERED on June 8, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

Amy Gutierrez, Pharm.D.  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 WILLIAM D. GARDNER  
Deputy Attorney General  
4 State Bar No. 244817  
300 So. Spring Street, Suite 1702  
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*Attorneys for Complainant*  
7

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

12 In the Matter of the Accusation Against:

Case No. 5399

13 **NILSA MARIA GAMBOA**  
2771 Golden Avenue  
14 Long Beach, CA 90806  
Pharmacy Technician Registration No. TCH  
15 11868

OAH No. 2015110960

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

Respondent.

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
21 She brought this action solely in her official capacity and is represented in this matter by Kamala  
22 D. Harris, Attorney General of the State of California, by William D. Gardner, Deputy Attorney  
23 General.

24 2. Nilsa Maria Gamboa is represented in this proceeding by attorney Jonathan C.  
25 Turner, whose address is 1007 Seventh Street, Suite 304, Sacramento, CA 95814.

26 3. On or about February 25, 1994, the Board of Pharmacy issued Pharmacy Technician  
27 Registration No. TCH 11868 to Nilsa Maria Gamboa (Respondent). The Pharmacy Technician  
28

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation  
2 No. 5399 and will expire on March 31, 2017, unless renewed.

3 JURISDICTION

4 4. Accusation No. 5399 was filed before the Board of Pharmacy (Board), Department of  
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
6 statutorily required documents were properly served on Respondent on September 24, 2015.  
7 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation  
8 No. 5399 is attached as Exhibit A and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the  
11 charges and allegations in Accusation No. 5399. Respondent also has carefully read, fully  
12 discussed with counsel, and understands the effects of this Stipulated Surrender of License and  
13 Order.

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

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
22 every right set forth above.

23 CULPABILITY

24 8. Respondent understands that the charges and allegations in Accusation No. 5399, if  
25 proven at a hearing, constitute cause for imposing discipline upon her Pharmacy Technician  
26 Registration.

27 9. For the purpose of resolving the Accusation without the expense and uncertainty of  
28 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual

1 basis for the charges in the Accusation and that those charges constitute cause for discipline.  
2 Respondent hereby gives up her right to contest that cause for discipline exists based on those  
3 charges.

4 10. Respondent understands that by signing this stipulation she enables the Board to issue  
5 an order accepting the surrender of her Pharmacy Technician Registration without further  
6 process.

7 CONTINGENCY

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

17 12. The parties understand and agree that Portable Document Format (PDF) and facsimile  
18 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures  
19 thereto, shall have the same force and effect as the originals.

20 13. This Stipulated Surrender of License and Order is intended by the parties to be an  
21 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
22 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
23 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
24 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
25 executed by an authorized representative of each of the parties.

26 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
27 the Board may, without further notice or formal proceeding, issue and enter the following Order:

28 ///

**ORDER**

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 11868, issued to Respondent Nilsa Maria Gamboa, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.

2. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 5399 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$2,850.00 prior to issuance of a new or reinstated license.

6. Respondent shall not apply for licensure or petition for reinstatement for three (3) years from the effective date of the Board of Pharmacy's Decision and Order.


7. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 5399 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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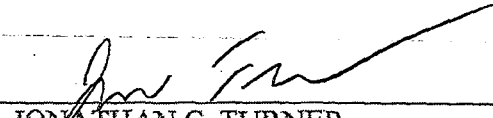
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully  
3 discussed it with my attorney, Jonathan C. Turner. I understand the stipulation and the effect it  
4 will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of  
5 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
6 Decision and Order of the Board of Pharmacy.

7  
8 DATED: 4/18/16   
9 NILSA MARIA GAMBOA  
Respondent

10 I have read and fully discussed with Respondent Nilsa Maria Gamboa the terms and  
11 conditions and other matters contained in this Stipulated Surrender of License and Order. I  
12 approve its form and content.

13 DATED: 4/18/16   
14 JONATHAN C. TURNER  
15 Attorney for Respondent

16 ENDORSEMENT

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

19 Dated: \_\_\_\_\_ Respectfully submitted,  
20 KAMALA D. HARRIS  
21 Attorney General of California  
22 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General

23  
24 WILLIAM D. GARDNER  
25 Deputy Attorney General  
Attorneys for Complainant

26  
27 LA2015500468  
28 Stipulation for surrender.tif

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Jonathan C. Turner. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

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

NILSA MARIA GAMBOA  
Respondent

I have read and fully discussed with Respondent Nilsa Maria Gamboa the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

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

JONATHAN C. TURNER  
Attorney for Respondent

ENDORSEMENT

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.

Dated: *4/18/16*

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
ARMANDO ZAMBRANO  
Supervising Deputy Attorney General



WILLIAM D. GARDNER  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 5399**



1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
4 State Bar No. 225325  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2542  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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9 **BOARD OF PHARMACY**  
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12 In the Matter of the Accusation Against:

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13 **NILSA MARIA GAMBOA**  
2771 Golden Avenue  
Long Beach, CA 90806

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

14 Pharmacy Technician Registration  
15 No. TCH 11868

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about February 25, 1994, the Board issued Pharmacy Technician Registration  
23 No. TCH 11868 to Nilsa Maria Gamboa (Respondent). The Pharmacy Technician Registration  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 March 31, 2017, unless renewed.

26 **JURISDICTION**

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

1 **JURISDICTION**

2 4. This Accusation is brought before the Board under the authority of the following laws.

3 All section references are to the Business and Professions Code unless otherwise indicated.

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

6 6. Section 4300.1 states:

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

12 **STATUTORY AND REGULATORY PROVISIONS**

13 7. Section 4301 states, in pertinent part:

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

17 . . . .

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

21 . . . .

22 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
23 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
24 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
25 substances or of a violation of the statutes of this state regulating controlled substances or  
26 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
27 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
28 The board may inquire into the circumstances surrounding the commission of the crime, in order to

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

11 8. California Code of Regulations, title 16, section 1770, states:

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

#### 18 COST RECOVERY

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

#### 25 10. DANGEROUS DRUGS

26 a. "Albuterol," is used to dilate the airways of the lung and is used for treating asthma  
27 and other conditions of the lung. It is categorized as a dangerous drug within the meaning of  
28 section 4022.

1           b. "Hydroxyzine Pamoate," is an antihistamine with anticholinergic and sedative  
2 properties used as a sedative to treat anxiety and tension. It is a prescription drug and considered  
3 a dangerous drug pursuant to section 4022.

4           c. "Loratadine," is used to temporarily relieve symptoms due to hay fever or other upper  
5 respiratory allergies. It is categorized as a dangerous drug within the meaning of section 4022.

6           d. "Prednisone," is a corticosteroid used to treat severe allergies, arthritis, asthma, and  
7 skin conditions. It is categorized as a dangerous drug within the meaning of section 4022.

8   **FIRST CAUSE FOR DISCIPLINE**

9   **(Conviction of a Substantially Related Crime)**

10           11. Respondent is subject to disciplinary action under sections 4301, subdivision (l), in  
11 conjunction with California Code of Regulations, title 16, section 1770, in that, Respondent was  
12 convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy  
13 technician as follows:

14           a. On or about November 19, 2014, Respondent was convicted of one misdemeanor  
15 count of violating Penal Code section 496, subdivision (a) [receiving stolen property] in the  
16 criminal proceeding entitled *The People of the State of California v. Nilsa Maria Gamboa* (Super.  
17 Ct. L.A. County, 2014, No. NA099132-04). The Court sentenced Respondent to serve 2 days in  
18 Los Angeles County jail and placed her on 3 years probation, with terms and conditions.

19           b. The circumstances surrounding the conviction are that on or between 2010 and 2014  
20 while working as a supervisor at the Veterans Affairs Hospital in Long Beach, Respondent  
21 received medications including loratadine, albuterol, prednisone, and hydroxyzine pamoate, from  
22 another employee for her personal use.

23   **SECOND CAUSE FOR DISCIPLINE**

24   **(Acts Involving Dishonesty, Fraud, Deceit, or Corruption)**

25           12. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that  
26 on or between 2010 and 2014, Respondent committed acts involving dishonesty, fraud, deceit, or  
27 corruption with the intent to substantially benefit herself, or substantially injure another.

28           ///

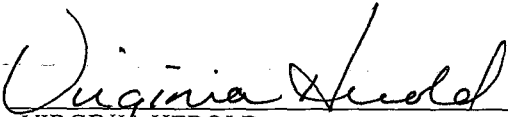
1 Complainant refers to, and by reference incorporates, the allegations set forth above in paragraph  
2 11, as though set forth fully.

3 **PRAYER**

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

- 6 1. Revoking or suspending Pharmacy Technician Registration No. TCH 11868, issued to  
7 Nilsa Maria Gamboa;
- 8 2. Ordering Nilsa Maria Gamboa to pay the Board the reasonable costs of the  
9 investigation and enforcement of this case, pursuant to section 125.3; and
- 10 3. Taking such other and further action as deemed necessary and proper.

11  
12  
13 DATED: 9/5/15

  
14 VIRGINIA HEROLD  
15 Executive Officer  
16 Board of Pharmacy  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant

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