

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

In the Matter of the Accusation Against:

**KATHERINE MELISSA GARCIA
37730 Sweetbrush St.
Palmdale, CA 93552**

**Pharmacy Technician Registration
No. TCH 138245**

Respondent.

Case No. 5473

OAH No. 2015120959

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 January 19, 2017.

It is so ORDERED December 20, 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
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7

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

11 In the Matter of the Accusation Against:

12 **KATHERINE MELISSA GARCIA**
13 **37730 Sweetbrush St.**
14 **Palmdale, CA 93552**

15 **Pharmacy Technician Registration**
16 **No. TCH 138245**

Respondent.

Case No. 5473

OAH No. 2015120959

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 **PARTIES**

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

25 2. Respondent Katherine Melissa Garcia (Respondent) is representing herself in this
26 proceeding and has chosen not to exercise her right to be represented by counsel.
27
28

1 10. Respondent agrees that her Pharmacy Technician Registration is subject to discipline
2 and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary
3 Order below.

4 RESERVATION

5 11. The admissions made by Respondent herein are only for the purposes of this
6 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
7 licensing agency is involved, and shall not be admissible in any other criminal or civil
8 proceeding.

9 CONTINGENCY

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

19 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
20 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
21 signatures thereto, shall have the same force and effect as the originals.

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

1 15. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 138245
6 issued to Respondent Katherine Melissa Garcia is revoked. However, the revocation is stayed
7 and Respondent is placed on probation for three (3) years on the following terms and conditions.

8 **1. Certification Prior to Resuming Work**

9 Respondent shall be automatically suspended from working as a pharmacy technician until
10 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides
11 satisfactory proof of certification to the board. Respondent shall not resume working as a
12 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
13 year shall be considered a violation of probation. Respondent shall not resume working as a
14 pharmacy technician until notified by the board.

15 During suspension, respondent shall not enter any pharmacy area or any portion of any
16 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
17 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
18 devices or controlled substances are maintained. Respondent shall not do any act involving drug
19 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
20 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
21 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
22 substances. Respondent shall not resume work until notified by the board.

23 Subject to the above restrictions, respondent may continue to own or hold an interest in any
24 licensed premises by the board in which she holds an interest at the time this decision becomes
25 effective unless otherwise specified in this order.

26 Failure to comply with this suspension shall be considered a violation of probation.

27 **2. Obey All Laws**

28 Respondent shall obey all state and federal laws and regulations.

1 Respondent shall report any of the following occurrences to the board, in writing, within
2 seventy-two (72) hours of such occurrence:

- 3 an arrest or issuance of a criminal complaint for violation of any provision of the
4 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
5 substances laws
- 6 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
7 criminal complaint, information or indictment
- 8 a conviction of any crime
- 9 discipline, citation, or other administrative action filed by any state or federal agency
10 which involves respondent's pharmacy technician registration or which is related to
11 the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
12 billing, or charging for any drug, device or controlled substance.

13 Failure to timely report any such occurrence shall be considered a violation of probation.

14 3. Report to the Board

15 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
16 designee. The report shall be made either in person or in writing, as directed. Among other
17 requirements, respondent shall state in each report under penalty of perjury whether there has
18 been compliance with all the terms and conditions of probation. Failure to submit timely reports
19 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
20 in submission of reports as directed may be added to the total period of probation. Moreover, if
21 the final probation report is not made as directed, probation shall be automatically extended until
22 such time as the final report is made and accepted by the board.

23 4. Interview with the Board

24 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
25 with the board or its designee, at such intervals and locations as are determined by the board or its
26 designee. Failure to appear for any scheduled interview without prior notification to board staff,
27 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
28 the period of probation, shall be considered a violation of probation.

1 **5. Cooperate with Board Staff**

2 Respondent shall cooperate with the board's inspection program and with the board's
3 monitoring and investigation of respondent's compliance with the terms and conditions of her
4 probation. Failure to cooperate shall be considered a violation of probation.

5 **6. Notice to Employers**

6 During the period of probation, respondent shall notify all present and prospective
7 employers of the decision in case number 5473 and the terms, conditions and restrictions imposed
8 on respondent by the decision, as follows:

9 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
10 respondent undertaking any new employment, respondent shall cause her direct supervisor,
11 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
12 tenure of employment) and owner to report to the board in writing acknowledging that the listed
13 individual(s) has/have read the decision in case number 5473 and the terms and conditions
14 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
15 supervisor(s) submit timely acknowledgement(s) to the board.

16 If respondent works for or is employed by or through a pharmacy employment service,
17 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
18 of the terms and conditions of the decision in case number 5473 in advance of the respondent
19 commencing work at each pharmacy. A record of this notification must be provided to the board
20 upon request.

21 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
22 (15) days of respondent undertaking any new employment by or through a pharmacy employment
23 service, respondent shall cause her direct supervisor with the pharmacy employment service to
24 report to the board in writing acknowledging that she has read the decision in case number 5473
25 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
26 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

27 Failure to timely notify present or prospective employer(s) or to cause that/those
28 employer(s) to submit timely acknowledgements to the board shall be considered a violation of

1 probation.

2 "Employment" within the meaning of this provision shall include any full-time,
3 part-time, temporary or relief service or pharmacy management service as a pharmacy
4 technician or in any position for which a pharmacy technician license is a requirement
5 or criterion for employment, whether the respondent is considered an employee,
6 independent contractor or volunteer.

7 **7. Reimbursement of Board Costs**

8 As a condition precedent to successful completion of probation, respondent shall pay to the
9 board its costs of investigation and prosecution in the amount of \$1,735.00. Respondent shall
10 follow the Board's payment plan. There shall be no deviation from this schedule absent prior
11 written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed
12 shall be considered a violation of probation.

13 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
14 reimburse the board its costs of investigation and prosecution.

15 **8. Probation Monitoring Costs**

16 Respondent shall pay any costs associated with probation monitoring as determined by the
17 board each and every year of probation. Such costs shall be payable to the board on a schedule as
18 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
19 be considered a violation of probation.

20 **9. Status of License**

21 Respondent shall, at all times while on probation, maintain an active, current pharmacy
22 technician license with the board, including any period during which suspension or probation is
23 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

24 If respondent's pharmacy technician license expires or is cancelled by operation of law or
25 otherwise at any time during the period of probation, including any extensions thereof due to
26 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
27 terms and conditions of this probation not previously satisfied.

28

1 **10. License Surrender While on Probation/Suspension**

2 Following the effective date of this decision, should respondent cease work due to
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
4 respondent may tender her pharmacy technician license to the board for surrender. The board or
5 its designee shall have the discretion whether to grant the request for surrender or take any other
6 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
7 license, respondent will no longer be subject to the terms and conditions of probation. This
8 surrender constitutes a record of discipline and shall become a part of the respondent's license
9 history with the board.

10 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
11 license to the board within ten (10) days of notification by the board that the surrender is
12 accepted. Respondent may not reapply for any license, permit, or registration from the board for
13 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
14 applicable to the license sought as of the date the application for that license is submitted to the
15 board.

16 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
17 **Employment**

18 Respondent shall notify the board in writing within ten (10) days of any change of
19 employment. Said notification shall include the reasons for leaving, the address of the new
20 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
21 shall further notify the board in writing within ten (10) days of a change in name, residence
22 address and mailing address, or phone number.

23 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
24 phone number(s) shall be considered a violation of probation.

25 **12. Tolling of Probation**

26 Except during periods of suspension, respondent shall, at all times while on probation, be
27 employed as a pharmacy technician in California for a minimum of 40 hours per calendar month.
28 Any month during which this minimum is not met shall toll the period of probation, i.e., the

1 period of probation shall be extended by one month for each month during which this minimum is
2 not met. During any such period of tolling of probation, respondent must nonetheless comply
3 with all terms and conditions of probation.

4 Should respondent, regardless of residency, for any reason (including vacation) cease
5 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
6 respondent must notify the board in writing within ten (10) days of cessation of work and must
7 further notify the board in writing within ten (10) days of the resumption of the work. Any
8 failure to provide such notification(s) shall be considered a violation of probation.

9 It is a violation of probation for respondent's probation to remain tolled pursuant to the
10 provisions of this condition for a total period, counting consecutive and non-consecutive months,
11 exceeding thirty-six (36) months.

12 "Cessation of work" means calendar month during which respondent is not
13 working for at least 40 hours as a pharmacy technician, as defined in Business and
14 Professions Code section 4115. "Resumption of work" means any calendar month
15 during which respondent is working as a pharmacy technician for at least 40 hours as
16 a pharmacy technician as defined by Business and Professions Code section 4115.

17 **13. Violation of Probation**

18 If a respondent has not complied with any term or condition of probation, the board shall
19 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
20 all terms and conditions have been satisfied or the board has taken other action as deemed
21 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
22 to impose the penalty that was stayed.

23 If respondent violates probation in any respect, the board, after giving respondent notice
24 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
25 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
26 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
27 a petition to revoke probation or an accusation is filed against respondent during probation, the
28 board shall have continuing jurisdiction, and the period of probation shall be automatically

1 extended until the petition to revoke probation or accusation is heard and decided.

2 **14. Completion of Probation**

3 Upon written notice by the board indicating successful completion of probation,
4 respondent's pharmacy technician license will be fully restored.

5 **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

6 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
7 attendance at a recognized and established substance abuse recovery support group in California,
8 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
9 or its designee. Respondent must attend at least one group meeting per week unless otherwise
10 directed by the board or its designee. Respondent shall continue regular attendance and submit
11 signed and dated documentation confirming attendance with each quarterly report for the duration
12 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
13 probation.

14 **16. Random Drug Screening**

15 Respondent, at her own expense, shall participate in random testing, including but not
16 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
17 screening program as directed by the board or its designee. Respondent may be required to
18 participate in testing for the entire probation period and the frequency of testing will be
19 determined by the board or its designee. At all times respondent shall fully cooperate with the
20 board or its designee, and shall, when directed, submit to such tests and samples for the detection
21 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
22 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
23 of probation. Upon request of the board or its designee, respondent shall provide documentation
24 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
25 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
26 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
27 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
28 shall be considered a violation of probation and shall result in the automatic suspension of work

1 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
2 board in writing.

3 During suspension, respondent shall not enter any pharmacy area or any portion of or any
4 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
5 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
6 devices or controlled substances are maintained. Respondent shall not do any act involving drug
7 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
8 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
9 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
10 substances. Respondent shall not resume work until notified by the board.

11 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
12 Subject to the above restrictions, respondent may continue to own or hold an interest in any
13 licensed premises in which she holds an interest at the time this decision becomes effective unless
14 otherwise specified in this order.

15 Failure to comply with this suspension shall be considered a violation of probation.

16 **17. Work Site Monitor**

17 Within ten (10) days of the effective date of this decision, respondent shall identify a work
18 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
19 during working hours. Respondent shall be responsible for ensuring that the work site monitor
20 reports in writing to the board quarterly. Should the designated work site monitor determine at
21 any time during the probationary period that respondent has not maintained sobriety, she shall
22 notify the board immediately, either orally or in writing as directed. Should respondent change
23 employment, a new work site monitor must be designated, for prior approval by the board, within
24 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
25 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
26 considered a violation of probation.

27 **18. Notification of Departure**

28 Prior to leaving the probationary geographic area designated by the board or its designee for

1 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
2 writing of the dates of departure and return. Failure to comply with this provision shall be
3 considered a violation of probation.

4 **19. Abstain from Drugs and Alcohol Use**

5 Respondent shall completely abstain from the possession or use of alcohol, controlled
6 substances, dangerous drugs and their associated paraphernalia except when the drugs are
7 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
8 request of the board or its designee, respondent shall provide documentation from the licensed
9 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
10 treatment of the respondent. Failure to timely provide such documentation shall be considered a
11 violation of probation. Respondent shall ensure that she is not in the same physical location as
12 individuals who are using illicit substances even if respondent is not personally ingesting the
13 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
14 not supported by the documentation timely provided, and/or any physical proximity to persons
15 using illicit substances, shall be considered a violation of probation.

16 **20. Prescription Coordination and Monitoring of Prescription Use**

17 Within thirty (30) days of the effective date of this decision, respondent shall submit
18 to the board, for its prior approval, the name and qualifications of a single physician, nurse
19 practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the
20 respondent's history with the use of alcohol, controlled substances, and/or dangerous drugs, and
21 who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
22 substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the
23 board's accusation and decision. A record of this notification must be provided to the board upon
24 request. Respondent shall sign a release authorizing the practitioner to communicate with the
25 board about respondent's treatment(s). The coordinating physician, nurse practitioner, physician
26 assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation
27 regarding respondent's compliance with this condition. If any substances considered addictive
28 have been prescribed, the report shall identify a program for the time limited use of any such

1 substances. The board may require that the single coordinating physician, nurse practitioner,
2 physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in
3 addictive medicine. Should respondent, for any reason, cease supervision by the approved
4 practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing
5 treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or
6 psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to
7 timely submit the selected practitioner or replacement practitioner to the board for approval, or to
8 ensure the required reporting thereby on the quarterly reports, shall be considered a violation of
9 probation. If at any time an approved practitioner determines that respondent is unable to
10 practice safely or independently as a pharmacy technician, the practitioner shall notify the board
11 immediately by telephone and follow up by written letter within three (3) working days. Upon
12 notification from the board or its designee of this determination, respondent shall be
13 automatically suspended and shall not resume practice until notified by the board that practice
14 may be resumed.

15 During suspension, respondent shall not enter any pharmacy area or any portion of or
16 any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
17 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
18 devices or controlled substances are maintained. Respondent shall not do any act involving drug
19 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
20 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
21 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
22 substances. Respondent shall not resume work until notified by the board.

23 Respondent shall not direct, control or perform any aspect of the practice of
24 pharmacy. Subject to the above restrictions, respondent may continue to own or hold an interest
25 in any licensed premises in which she holds an interest at the time this decision becomes effective
26 unless otherwise specified in this order. Failure to comply with this suspension shall be
27 considered a violation of probation.

28 During suspension, respondent shall not engage in any activity that requires the

1 professional judgment of a pharmacy technician. Respondent shall not direct or control any aspect
2 of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or
3 a designated representative for any entity licensed by the board.

4 Failure to comply with this suspension shall be considered a violation of probation.

5 **ACCEPTANCE**

6 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
7 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
8 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
9 to be bound by the Decision and Order of the Board of Pharmacy.

10
11
12 DATED: 9/8/2016


13 **KATHERINE MELISSA GARCIA**
14 *Respondent*

15 **ENDORSEMENT**

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the Board of Pharmacy.

18
19 Dated: September 8, 2016

20 Respectfully submitted,

21 KAMALA D. HARRIS
22 Attorney General of California
23 THOMAS L. RINALDI
24 Supervising Deputy Attorney General



25 HEATHER VO
26 Deputy Attorney General
27 *Attorneys for Complainant*

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Exhibit A

Accusation No. 5473

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7 *Attorneys for Complainant.*

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. 5473

13 **KATHERINE MELISSA GARCIA**
14339 Tiara St., Apt. #1
15 Van Nuys, CA 91406

A C C U S A T I O N

16 Pharmacy Technician Registration
No. TCH 138245

Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about January 15, 2014, the Board of Pharmacy (Board) issued Pharmacy
22 Technician Registration No. TCH 138245 to Katherine Melissa Garcia (Respondent). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought herein and will expire on March 31, 2017, unless renewed.

25 **JURISDICTION**

26 3. 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 unless otherwise indicated.

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1 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
2 not limited to, any of the following:

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

6 (l) The conviction of a crime substantially related to the qualifications,
7 functions, and duties of a licensee under this chapter. The record of conviction of a
8 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
9 States Code regulating controlled substances or of a violation of the statutes of this
10 state regulating controlled substances or dangerous drugs shall be conclusive evidence
11 of unprofessional conduct. In all other cases, the record of conviction shall be
12 conclusive evidence only of the fact that the conviction occurred. The board may
13 inquire into the circumstances surrounding the commission of the crime, in order to
14 fix the degree of discipline or, in the case of a conviction not involving controlled
15 substances or dangerous drugs, to determine if the conviction is of an offense
16 substantially related to the qualifications, functions, and duties of a licensee under this
17 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
18 contendere is deemed to be a conviction within the meaning of this provision. The
19 board may take action when the time for appeal has elapsed, or the judgment of
20 conviction has been affirmed on appeal or when an order granting probation is made
21 suspending the imposition of sentence, irrespective of a subsequent order under
22 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
23 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
24 dismissing the accusation, information, or indictment.

16 REGULATORY PROVISION

17 9. California Code of Regulations, title 16, section 1770, states, in pertinent part:

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

22 COST RECOVERY

23 10. Section 125.3 states, in pertinent part, that the Board may request the administrative
24 law judge to direct a licensee found to have committed a violation or violations of the licensing
25 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
26 case.

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FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

11. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a pharmacy technician. On or about February 25, 2015, Respondent was convicted of one felony count of violating Penal Code section 10851, subdivision (a) [unlawfully driving or taking of a vehicle without consent] in the criminal proceeding entitled *The People of the State of California v. Katherine Garcia* (Super. Ct. L.A. County, 2015, No. PA081811). The Court sentenced Respondent to serve 9 days in jail and placed her on 3 years formal probation, with terms and conditions. The circumstances surrounding the conviction are that on or about August 19, 2014, Respondent unlawfully drove and took a 2013 BMW automobile, License Plate 6ZYV298, the personal property of A.B., without consent and with intent to permanently or temporarily deprive the owner of title and possession of vehicle.

SECOND CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit)

12. Respondent is subject to disciplinary action under section 4301, subdivisions (f), in that Respondent committed acts involving dishonesty, fraud, or deceit. Complainant refers to, and by this reference incorporates the allegations set forth in paragraph 11, as though set forth fully.

PRAYER

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 138245, issued to Katherine Melissa Garcia;

