

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

In the Matter of the Accusation Against:

ALEJANDRO GAYTEN FLORES

11231 Tamarack Avenue
Pacoima, CA 91331

**Pharmacy Technician Registration No. TCH
131379**

Respondent.

Case No. 6676

OAH No. 2019100918

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Repeval 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 23, 2020.

It is so ORDERED on December 24, 2019.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
Board President

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

12 In the Matter of the Accusation Against:

13 **ALEJANDRO GAYTEN FLORES**
14 11231 Tamarack Avenue
Pacoima, CA 91331

15
16 **Pharmacy Technician Registration No. TCH**
131379

17 Respondent.

Case No. 6676

OAH No. 2019100918

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL

[Bus. & Prof. Code § 495]

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

22 **PARTIES**

23 1. Anne Sodergren (Complainant) is the Interim 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 Xavier Becerra, Attorney General of the State of California, by Kim Kasreliovich,
26 Deputy Attorney General.

27 2. Respondent Alejandro Gayten Flores (Respondent) is representing himself in this
28 proceeding and has chosen not to exercise his right to be represented by counsel.

1 **JURISDICTION**

2 3. On or about April 4, 2013, the Board issued Pharmacy Technician Registration No.
3 TCH 131379 to Respondent. The Pharmacy Technician Registration was in full force and effect
4 at all times relevant to the charges brought in Accusation No. 6676 and will expire on October 31,
5 2020, unless renewed.

6 4. Accusation No. 6676 was filed before the Board, Department of Consumer Affairs
7 and is currently pending against Respondent. The Accusation and all other statutorily required
8 documents were properly served on Respondent on August 27, 2019. Respondent timely filed his
9 Notice of Defense contesting the Accusation. A copy of Accusation No. 6676 is attached as
10 Exhibit A and incorporated herein by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, and understands the charges and allegations in
13 Accusation No. 6676. Respondent has also carefully read, and understands the effects of this
14 Stipulated Settlement and Disciplinary Order for Public Repeval.

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

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

24 **CULPABILITY**

25 8. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 6676.

27 9. Respondent agrees that his Pharmacy Technician Registration is subject to discipline
28 and he agrees to be bound by the Disciplinary Order below.

CONTINGENCY

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2 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
4 communicate directly with the Board regarding this stipulation and settlement, without notice to
5 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
6 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the
7 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
8 Order, the Stipulated Settlement and Disciplinary Order for Public Repeval shall be of no force
9 or effect, except for this paragraph, it shall be inadmissible in any legal action between the
10 parties, and the Board shall not be disqualified from further action by having considered this
11 matter.

12 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
13 copies of this Stipulated Settlement and Disciplinary Order for Public Repeval, including
14 Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and
15 effect as the originals.

16 12. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by
17 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
18 of their agreement. It supersedes any and all prior or contemporaneous agreements,
19 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
20 Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified,
21 supplemented, or otherwise changed except by a writing executed by an authorized representative
22 of each of the parties.

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

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 131379 issued to Respondent Alejandro Gayten Flores (Respondent) shall be publicly reproved by the Board of Pharmacy under Business and Professions Code section 495 in resolution of Accusation No. 6676, attached as Exhibit A.

Cost Recovery. Respondent shall pay \$1,200 to the Board for its costs associated with the investigation and enforcement of this matter. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew his Pharmacy Technician Registration until Respondent pays costs in full.

ACCEPTANCE

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

DATED:

11/6/2019


ALEJANDRO GAYTEN FLORES
Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Repeval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: November 18, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


KIM KASRELIOVICH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6676

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Case No. 6676

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14 112131 Tamarack Avenue
Pacoima, CA 91331

ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
16 **131379**

17 Respondent.

18
19
20 **PARTIES**

21 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
22 as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about April 4, 2013, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 131379 to Alejandro Gayten Flores (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on October 31, 2020, unless renewed.

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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 **STATUTORY PROVISIONS**

6 4. Section 4301 states:

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

10

11 “(c) Gross negligence.

12

13 “(j) The violation of any of the statutes of this state, of any other state, or of the United
14 States regulating controlled substances and dangerous drugs.

15

16 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
17 violation of or conspiring to violate any provision or term of this chapter or of the applicable
18 federal and state laws and regulations governing pharmacy, including regulations established by
19 the board or by any other state or federal regulatory agency.”

20 5. Section 4051 states, in pertinent part:

21 “(a) Except as otherwise provided in this chapter, it is unlawful for any person to
22 manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to
23 dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she
24 is a pharmacist under this chapter.”

25 6. Section 4077 states in pertinent part:

26 “(a) Except as provided in subdivisions (b) and (c), no person shall dispense any dangerous
27 drug upon prescription except in a container correctly labeled with the information required by
28 Section 4076.”

1 **FACTUAL ALLEGATIONS**

2 12. On or about January 21, 2018, Respondent was employed as a pharmacy technician at
3 a Rite Aid Pharmacy in Canoga Park. During Respondent's shift, a patient called and requested
4 the transfer of two prescriptions (Duoneb and Prednisone) from another Rite Aid Pharmacy
5 location. The pharmacist spoke to the patient and explained that he would fill the prescription for
6 Duoneb but the prescription for Prednisone was still on hold at the other store. The pharmacist
7 told the patient that he had to wait for the other store, he was going to lunch, and both
8 prescriptions would be ready after about 30 minutes. The pharmacist reported to Respondent the
9 situation with the patient and went to lunch.

10 13. While the pharmacist was at lunch, the patient arrived. Respondent gave the patient
11 the Duoneb inhaler and filled the prescription of four Prednisone tablets (50mg), in an unlabeled
12 vial. He handwrote directions for medication use on a piece of paper and gave it to the patient.
13 When the pharmacist returned from lunch, Respondent asked the pharmacist to mark the
14 prescription as sold and admitted he released the medication without the pharmacist present and
15 without consultation.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Unlawful Dispensing of a Dangerous Drug)**

18 14. Respondent is subject to disciplinary action under section 4051, subdivision (a), in
19 that on or about January 21, 2018, Respondent filled and dispensed a new, unlabeled prescription
20 for a dangerous drug without a pharmacist present. Complaint refers to, and by this reference
21 incorporates paragraphs 12 and 13, as though set forth in full.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Dispensing an Unlabeled Prescription)**

24 15. Respondent is subject to disciplinary action under section 4077, subdivision (a), in
25 that on or about January 21, 2018, Respondent filled and dispensed a new prescription without a
26 label. Complainant refers to and by this reference incorporates the allegations set forth above in
27 paragraphs 12 and 13, as though set forth in full.

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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 131379, issued to Alejandro Gayten Flores;
2. Ordering Alejandro Gayten Flores 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; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: August 8, 2019



ANNE SODERGREN
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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