

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

In the Matter of the Accusation Against:

Case No. 4993

**LAWRENCE EASTMAN
GOODERMONT,**
AKA LARRY EASTMAN GOODERMONT,

OAH No. 2015101102

Pharmacy Technician License No. TCH 49322,

Respondent.

DECISION AFTER REJECTION

This matter was heard by Samuel D. Reyes, Administrative Law Judge (ALJ), Office of Administrative Hearings, in Los Angeles, California, on June 6, 2016. Alvaro Mejia, Deputy Attorney General, represented Virginia Herold (Complainant), Executive Officer of the California State Board of Pharmacy (Board). Patric Hooper and Lin Sensen, Attorneys at Law, represented Lawrence Eastman Goodermont, aka Larry Eastman Goodermont (Respondent). Oral and documentary evidence was received at the hearing, and the matter was submitted to the ALJ on June 6, 2016. The ALJ issued a Proposed Decision on June 28, 2016.

On September 28, 2016, pursuant to section 11517 of the Government Code, the Board issued an Order rejecting the June 28, 2016, Proposed Decision of the ALJ. On November 2, 2016, the Board issued an Order reflecting that the transcript had been received and the deadline for submission of written argument was set for December 2, 2016. Both parties timely submitted written argument.

Complainant seeks to discipline Respondent's license on the basis of allegations that on March 17, 2013, Respondent unlawfully possessed and used a controlled substance. Respondent did not dispute many of the allegations, but provided evidence in mitigation and rehabilitation in support of continued licensure.

The Board, having reviewed and considered the entire record, including the transcript, exhibits and written arguments, now issues this decision.

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity.
2. On August 25, 2003, the Board issued Pharmacy Technician License number TCH 49322 to Respondent. The license has not been previously disciplined. It expires on January 31, 2017, unless renewed.
3. On March 17, 2013, at approximately 11:50 p.m., Respondent and a companion were stopped by Los Angeles Police Department officers due to a missing license plate light. During an ensuing search of the vehicle, the officers found .37 grams of methamphetamine and a clear glass pipe typically used to smoke the substance.
4. Respondent was not using or under the influence of methamphetamine or any controlled substance at the time of his arrest.
5. On April 5, 2013, Respondent was charged with violation of Health and Safety Code sections 11377 (possession of methamphetamine, a controlled substance) and 11364, subdivision (a) (possession of controlled substance paraphernalia). The case was dismissed on October 24, 2014, following Respondent's successful completion of a court-ordered diversion program. Respondent has not suffered any other arrests.
6. Respondent was very candid at the hearing about his history of substance abuse. He started using methamphetamine, his drug of choice, in 2000, after what he called "a year of wandering in darkness" following the death of his mother. He lived in West Hollywood at the time and "crystal meth was everywhere." For the first two to three years, his use was casual and sporadic. He became concerned about addiction in 2005, and entered a treatment program at Cedars Sinai Medical Center in June 2005. He started attending Alcoholics Anonymous (AA) meetings and meeting with a sponsor. He remained sober for about two years. After about a week-long relapse, he returned to AA meetings and to work on sobriety. The next relapse, which lasted about two days, occurred in October 2009, after a bout of deep depression following eye surgery. He again used methamphetamine in March 2013 in the days preceding his arrest. A two-day period of usage occurred in July 2015. His last relapse occurred in early March 2016, when he briefly smoked methamphetamine before stopping in shame.
7. Respondent realizes he needs to remain clean and sober, and expressed regret for past failures to so remain. In July 20, 2015, he became a client of the Los Angeles LGBT Center's Addiction Recovery Services (Center). He completed the Center's Evening Outpatient Program in October 19, 2015, and is participating in its aftercare program, which includes individual and group therapy. Since early 2016, Respondent has been in weekly therapy with Jackie Azad (Azad), MFT Intern. Respondent attends AA or other 12-step meetings seven days per week, a level of attendance not previously undertaken. Three of the meetings are 90-minute group sessions which are part of the Center's aftercare program. He regularly works with his sponsor. In order to maintain his sobriety, Respondent does not drink alcoholic beverages. He no longer goes to clubs where he can encounter methamphetamine or those who use it.

8. Mike Rizzo, LMFT, CSAC, the Center's Program Manager of Addiction Recovery Services, submitted a June 2, 2016, letter attesting to Respondent's participation in the Center's programs and concluding that "If [Respondent] continues to attend the group, his prognosis for achieving recovery from substance is good." (Exh. A, at p.2.) In a letter dated June 3, 2016, Azad wrote that Respondent actively and regularly participates in therapy, accepting responsibility for his actions and seeking skills to remain sober.

9. Respondent became interested in the pharmacy field in 1992, while working at a store that specialized in health foods and alternative medicine. The impetus of licensure was his desire to help those with Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome. He has been working at CVS Pharmacy since March 2008, which included a brief period from March 2014 at Target Pharmacy before it was acquired by CVS Pharmacy.

10. In his current position, he greets customers, obtains necessary information for the filling of prescriptions, enters information into computers, and retrieves medication for dispensation to patients. According to Respondent, pharmacy technicians at the pharmacy where he is employed do not count or touch unpacked medications, or stock prescription medications. The store contains surveillance cameras and utilizes other security measures to ensure that pharmaceuticals are not diverted.

11. There is no evidence that Respondent has unlawfully obtained medications at work or that he has been under the influence at work. He enjoys his work very much, and described it as part of his identity. Respondent states that has disclosed his addiction to all his coworkers. Respondent submitted letters from six current or former coworkers, all of whom attest to his character, work habits and professionalism, and sobriety at work.

12. Respondent is 57-years old and leads what he calls a "boring life," spending his time between work, the gym, and meetings. Most of his family lives in Minnesota, and he regularly travels to the state.

13. The Board incurred \$5,707.50 in the form of Attorney General charges in its investigation and enforcement of this matter. Of this total, \$2,720 was billed by the attorney who prepared the case for trial and who actually tried the case, and \$480 was billed by paralegals assisting in the investigation. In light of the complexity of the case, the causes for discipline established at the hearing, and the duplication of work by attorneys preparing the case, the reasonable costs are those billed by the attorney who presented the case and the initial investigation costs, or a total of \$3,200.

14. Respondent takes home between \$1,600 and \$1,800 per month. Rent and utility bills are about \$1,000 per month. He spends \$800 to \$1,000 per year in travel to Minnesota.

LEGAL CONCLUSIONS

1. Complainant must establish cause for discipline against a pharmacy technician's license by demonstrating cause for discipline by a preponderance of the evidence. (*Imports*

Performance v Dept. of Consumer Affairs, Bur. of Automotive Repair (2011) 201 Cal.App.4th 911, 916-917; *San Benito Foods v Veneman* (1996) 50 Cal.App.4th 1889.) Although the standard of proof is a preponderance of the evidence, in this action, each violation found was proven by clear and convincing evidence.

2. Cause exists to discipline Respondent's license for unprofessional conduct pursuant to Business and Professions Code sections 4060 and 4301, subdivision (o), subdivision (a), in that he violated the Pharmacy Law when he possessed a controlled substance, methamphetamine, without a valid prescription, by reason of factual finding number 3.

3. Cause exists to discipline Respondent's license for unprofessional conduct pursuant to Business and Professions Code section 4301, subdivision (h), in that it was established that he used a controlled substance, methamphetamine, in a manner dangerous to himself or others, by reason of factual finding number 6.

4. Cause exists to discipline Respondent's license for unprofessional conduct pursuant to Business and Professions Code section 4301, subdivision (j), in conjunction with Health and Safety Code sections 11364, subdivision (a), and 11377, subdivision (a), in that he violated the Pharmacy Law when he possessed and used, in a manner dangerous to himself or others, a controlled substance, methamphetamine, without a valid prescription, by reason of factual findings numbered 3 and 6, and legal conclusions 2 and 3 above.

5. Cause exists, pursuant to Business and Professions Code section 125.3, to order Respondent to pay the Board's costs of investigation and enforcement in this matter, in the sum of \$3,200, by reason of factual finding number 13 and legal conclusions 2 through 4.

In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the Supreme Court rejected a constitutional challenge to a cost regulation similar to Business and Professions Code section 125.3. In so doing, however, the Court directed the administrative law judge and the agency to evaluate several factors to ensure that the cost provision did not deter individuals from exercising their right to a hearing. Thus, an agency must not assess the full costs where it would unfairly penalize the respondent who has committed some misconduct, but who has used the hearing process to obtain the dismissal of some charges or a reduction in the severity of the penalty; the agency must consider a respondent's subjective good faith belief in the merits of his or her position and whether the respondent has raised a colorable challenge; the agency must consider a respondent's ability to pay; and the agency may not assess disproportionately large investigation and prosecution costs when it has conducted a disproportionately large investigation to prove that a respondent engaged in relatively innocuous misconduct. (*Id.*, at p. 45.)

In this case, Respondent has demonstrated that he is unable to pay the Board's full costs of investigation and enforcement. A 50 percent reduction, to \$1,600, is appropriate in light of Respondent's limited resources. Respondent will also be permitted to make installment payments.

6. All evidence submitted in mitigation and rehabilitation, as well as that submitted in aggravation, has been considered in light of the Board's Disciplinary Guidelines (Cal. Code Regs., tit. 16, § 1760) and criteria for rehabilitation (Cal. Code of Regs., tit. 16, § 1769). Respondent had one arrest, which resulted in dismissal of the charges following successful completion of a diversion program for criminal offenders. Respondent has struggled with substance abuse since 2000. Since he was first sober in 2005, by his own testimony, he has had at least 5 relapses, most recently a mere 90 days before the hearing. Respondent's intent to achieve sobriety and his progress in battling his addiction is worthy of recognition, as well as the candor with which he shared them. But the frequency and recency of the relapses is alarming, and outweighs his increased efforts to remain clean and sober, even considering his daily meeting attendance and weekly individual therapy sessions. Although his addiction has not yet been demonstrated to have impacted his work, the board is not required to wait until it does before it takes action. (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 771; *Sulla v. Board of Registered Nursing* (2012) 205 Cal.App.4th 1195.) While respondent's coworkers attest to his good character, professionalism, and sobriety at work, their support is also unpersuasive to allow him to continue to be licensed in light of the risk to the public. It is also unclear whether the letter writers were aware of the extent of his drug use history or his recent usage of drugs. Even if it is true that Respondent does not handle unopened medications at work, Respondent has immediate access to controlled substances, that can easily be opened, which creates a risk to the public. Should Respondent suffer another relapse and come to work under the influence or on the heels of a relapse, his ability to perform his functions could be compromised and poses a risk to patients. While his employer's systems to prevent theft or diversion warrant acknowledgment, they are insufficient to protect the public from the risk of Respondent's further relapses that could affect the public. Pharmacies, pharmacists and pharmacy technicians serve as the public gatekeepers to dangerous drugs, including controlled substances, therefore it is of utmost importance that the Board and the public can trust all board licensees to neither divert nor abuse dangerous drugs and controlled substances.

The ALJ found that Respondent was remorseful and showed rehabilitation and recommended the license be revoked, but the revocation stayed under terms and conditions of probation. The Board has given significant weight to the ALJ's credibility finding,¹ however, the Board is not bound by the ALJ's determination of whether the applicant is qualified for licensure. (*In re Glass* (2014) 58 Cal.4th 500, 520-21; *In re Gossage* (2000), 23 Cal.4th 1080.) In this case, other evidence compels us to reject the conclusion that Respondent has overcome the rehabilitation hurdle created by his prior misconduct to allow him to remain licensed.

ORDER

¹ Government Code section 11425.50(b) states, in pertinent part, "If the factual basis for the decision includes a determination based substantially on the credibility of a witness, the statement shall identify any specific evidence of the observed demeanor, manner, or attitude of the witness that supports the determination, and on judicial review the court shall give great weight to the determination to the extent the determination identifies the observed demeanor, manner, or attitude of the witness that supports it." The ALJ's findings of credibility did not contain any observations of the demeanor or attitude of Respondents, so the findings are not entitled to great weight.

Pharmacy technician license number TCH 49322, issued to respondent Lawrence Eastman Goodermont, is revoked. Respondent shall relinquish his technician license to the board within ten days of the effective date of this decision. Respondent may not reapply or petition the board for reinstatement of his revoked technician license for three years from the effective date of this decision.

Respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$1,600.00. Said amount may be paid in installments, but payments shall begin within fifteen days of the effective date of the decision.

~~This Decision shall become effective at 5:00 p.m. on March 6, 2017.~~

It is so ORDERED on February 2, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

LAWRENCE EASTMAN GOODERMONT,
AKA LARRY EASTMAN
GOODERMONT,

Respondent.

Case No. 4993

OAH No. 2015101102

TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

ORDER SETTING DATE FOR SUBMISSION OF WRITTEN ARGUMENT

The administrative record of the hearing in the above-entitled matter having now become available, the parties are hereby notified of the opportunity to submit written argument in accordance with the Order Rejecting the Proposed Decision dated September 28, 2016.

Written argument shall be filed with the Board of Pharmacy, 1625 N. Market Blvd., Suite N-219, Sacramento, California, 95834 on or before December 2, 2016. **No new evidence may be submitted.**

IT IS SO ORDERED this 2nd day of November 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

LAWRENCE EASTMAN GOODERMONT,
AKA LARRY EASTMAN
GOODERMONT

Respondent.

Case No. 4993

OAH No. 2015101102

ORDER REJECTING PROPOSED DECISION

Pursuant to section 11517 of the Government Code, the Proposed Decision of the Administrative Law Judge in the above-entitled matter is rejected. The California State Board of Pharmacy (hereinafter "board") will decide the case upon the record, including the transcript(s) of the hearing, and upon such written argument as the parties may wish to submit.

Although the right to argue is not limited, the board is particularly interested in arguments directed to the question whether the penalty should be increased. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

It is so ORDERED on September 28, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

LAWRENCE EASTMAN GOODERMONT,
AKA LARRY EASTMAN
GOODERMONT,

Respondent.

Case No. 4993

OAH No. 2015101102

PROPOSED DECISION

This matter was heard by Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on June 6, 2016.

Alvaro Mejia, Deputy Attorney General, represented Virginia Herold (Complainant), Executive Officer, Board of Pharmacy (Board).

Patric Hooper and Lin Sensen, Attorneys at Law, represented Lawrence Eastman Goodermont, aka Larry Eastman Goodermont (Respondent).

Complainant seeks to discipline Respondent's license on the basis of allegations that on March 17, 2013, Respondent unlawfully possessed and used a controlled substance. Respondent did not dispute many of the allegations, but provided evidence in mitigation and rehabilitation in support of continued licensure.

Oral and documentary evidence was received at the hearing, and the matter was submitted for decision on June 6, 2016.

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity.
2. On August 25, 2003, the Board issued Pharmacy Technician License number TCH 49322 to Respondent. The license has not been previously disciplined. It expires on January 31, 2017, unless renewed.

3. On March 17, 2017, at approximately 11:50 p.m., Respondent and a companion were stopped by Los Angeles Police Department officers due to a missing license plate light. During an ensuing search of the vehicle, the officers found .37 grams of methamphetamine and a clear glass pipe typically used to smoke the substance.

4. Respondent was not using or under the influence of methamphetamine or any controlled substance at the time of his arrest.

5. On April 5, 2013, Respondent was charged with violation of Health and Safety Code sections 11377 (possession of methamphetamine, a controlled substance) and 11364, subdivision (a) (possession of controlled substance paraphernalia). The case was dismissed on October 24, 2014 following Respondent's successful completion of a court-ordered diversion program. Respondent has not suffered any other arrests.

6. Respondent was very candid at the hearing about his history of substance abuse. He started using methamphetamine, his drug of choice, in 2000, after what he called "a year of wandering in darkness" following the death of his mother. He lived in West Hollywood at the time and "crystal meth was everywhere." For the first two to three years, his use was casual and sporadic. He became concerned about addiction in 2005, and entered a treatment program at Cedars Sinai Medical Center in June 2005. He started attending Alcoholics Anonymous (AA) meetings and meeting with a sponsor. He remained sober for about two years. After about a week-long relapse, he returned to AA meetings and to work on sobriety. The next relapse, which lasted about two days, occurred in October 2009, after a bout of deep depression following eye surgery. He again used methamphetamines in March 2013 in the days preceding his arrest. A two-day period of usage occurred in July 2015. His last relapse occurred in early March 2016, when he briefly smoked methamphetamine before stopping in shame.

7. Respondent realizes he needs to remain clean and sober, and expressed regret for past failures to so remain. In July 20, 2015, he became a client of the Los Angeles LGBT Center's Addiction Recovery Services (Center). He completed the Center's Evening Outpatient Program on October 19, 2015, and is participating in its aftercare program, which includes individual and group therapy. Since early 2016, Respondent has been in weekly therapy with Jackie Azad (Azad), MFT Intern. Respondent attends AA or other 12-step meetings seven days per week, a level of attendance not previously undertaken. Three of the meetings are 90-minute group sessions which are part of the Center's aftercare program. He regularly works with his sponsor. In order to maintain his sobriety, Respondent does not drink alcoholic beverages. He no longer goes to clubs where he can encounter methamphetamine or those who use it.

8. Mike Rizzo, LMFT, CSAC, the Center's Program Manager of Addiction Recovery Services, submitted a June 2, 2016 letter attesting to Respondent's participation in the Center's programs and concluding that "If [Respondent] continues to attend the group, his

prognosis for achieving recovery from substances is good.” (Exh. A, at p. 2.) In a letter dated June 3, 2016, Azad wrote that Respondent actively and regularly participates in therapy, accepting responsibility for his actions and seeking skills to remain sober.

9. Respondent became interested in the pharmacy field in 1992, while working at a store that specialized in health foods and alternative medicine. The impetus for licensure was his desire to help those with Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome. He has been working at CVS Pharmacy since March 2008, which included a brief period from March 2014 at Target Pharmacy before it was acquired by CVS Pharmacy.

10. In his current position, he greets customers, obtains necessary information for the filling of prescriptions, enters information into computers, and retrieves medication for dispensation to patients. Pharmacy technicians at his pharmacy do not count or touch unpackaged medications, or stock prescription medications. The store contains surveillance cameras and utilizes other security measures to ensure that pharmaceuticals are not diverted.

11. There is no evidence that Respondent has unlawfully obtained medications at work or that he has been under the influence at work. He enjoys his work very much, and described it as part of his identity. Respondent has disclosed his addiction to all his coworkers. Respondent submitted letters from six current or former coworkers, all of whom attest to his character, work habits and professionalism, and sobriety.

12. Respondent is 57-years old and leads what he calls a “boring life,” spending his time between work, the gym, and meetings. Most of his family lives in Minnesota, and he regularly travels to the state.

13. The Board incurred \$5,707.50 in the form of Attorney General charges in its investigation and enforcement of this matter. Of this total, \$2,720 was billed by the attorney who prepared the case for trial and who actually tried the case, and \$480 was billed by paralegals assisting in the investigation. In light of the complexity of the case, the causes for discipline established at the hearing, and the duplication of work by attorneys preparing the case, the reasonable costs are those billed by the attorney who presented the case and the initial investigation costs, or a total of \$3,200.

14. Respondent takes home between \$1,600 and \$1,800 per month. Rent and utility bills are about \$1,000 per month. He spends \$800 to \$1,000 per year in travel to Minnesota.

LEGAL CONCLUSIONS

1. Grounds exist to discipline Respondent’s license for unprofessional conduct pursuant to Business and Professions Code sections 4060 and 4301, subdivisions (j) and (o), in

that he violated a the Pharmacy Law when possessed a controlled substance, methamphetamine, without a valid prescription, by reason of factual finding number 3.

2. Grounds do not exist to discipline Respondent's license for unprofessional conduct pursuant to Business and Professions Code section 4301, subdivision (h), in that it was not established that he used a controlled substance, methamphetamine, on March 17, 2013, in a manner dangerous to himself or others, by reason of factual finding number 4.

3. Cause exists, pursuant to Business and Professions Code section 125.3, to order Respondent to pay the Board's costs of investigation and enforcement in this matter, in the sum of \$3,200, by reason of factual finding number 13 and legal conclusion number 1.

In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the Supreme Court rejected a constitutional challenge to a cost regulation similar to Business and Professions Code section 125.3. In so doing, however, the Court directed the administrative law judge and the agency to evaluate several factors to ensure that the cost provision did not deter individuals from exercising their right to a hearing. Thus, an agency must not assess the full costs where it would unfairly penalize the respondent who has committed some misconduct, but who has used the hearing process to obtain the dismissal of some charges or a reduction in the severity of the penalty; the agency must consider a respondent's subjective good faith belief in the merits of his or her position and whether the respondent has raised a colorable challenge; the agency must consider a respondent's ability to pay; and the agency may not assess disproportionately large investigation and prosecution costs when it has conducted a disproportionately large investigation to prove that a respondent engaged in relatively innocuous misconduct. (*Id.*, at p. 45.)

In this case, Respondent has demonstrated that he is unable to pay the Board's full costs of investigation and enforcement. A 50 percent reduction, to \$1,600, is appropriate in light of Respondent's limited resources. Respondent will also be permitted to make installment payments.

4. All evidence submitted in mitigation and rehabilitation, as well as that submitted in aggravation, has been considered in light of the Board's Disciplinary Guidelines (Cal. Code Regs., tit. 16, § 1760) and criteria for rehabilitation (Cal. Code of Regs., tit. 16, § 1769). Respondent has had only one arrest, which resulted in dismissal of the charges following successful completion of a diversion program. Despite his struggles with substance abuse, Respondent is intent on achieving sobriety and has been making progress in battling his addiction. While there have been relapses, the length of use during the most recent ones has been decreasing. In his most recent relapse, Respondent stopped using methamphetamine almost immediately. He has significantly increased his efforts to remain clean and sober, and attends daily meetings and weekly individual therapy sessions. Of note, his addiction has not actually impacted his work, and his coworkers attest to his good character, professionalism, and

sobriety at work. Respondent does not actually handle unopened medications and his employer has systems in place, including limiting the responsibilities of pharmacy technicians, which, together with Respondent's track record at work and his commitment to sobriety, make diversion of drugs unlikely.

Actual suspension of the license is not necessary for the protection of the public given the violations established and the following terms and conditions of probation. Inasmuch as no issues have been raised about Respondent's technical ability to discharge his duties as a pharmacy technician, the standard term of probation requiring immediate licensure suspension while a probationer obtains the certification set forth in Business and Professions section 4202, subdivision (a)(4), will be modified. Accordingly, the order that follows is necessary and sufficient for the protection of the public.

ORDER

License number THC 49322, issued to Respondent Lawrence Eastman Goodermont, aka Larry Eastman Goodermont, is revoked; however, the revocation is stayed and Respondent is placed on probation for three years upon the following terms and conditions:

1. **Certification.** Respondent shall be automatically suspended from working as a pharmacy technician if he fails to obtain the certification set forth in Business and Professions Code section 4202, subdivision (a)(4), and provide satisfactory proof of certification to the board within six months of the effective date of this Decision. If he fails to obtain the certification, Respondent's license shall be automatically suspended and Respondent shall not resume working as a pharmacy technician until notified by the Board. Failure to achieve certification within one year shall be considered a violation of probation.

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

Subject to the above restrictions, Respondent may continue to own or hold an interest in any licensed premises by the Board in which he or she holds an interest at the time this Decision becomes effective unless otherwise specified in this order.

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

2. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence: (1) an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws; (2) a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment; (3) a conviction of any crime; (4) discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's pharmacy technician license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance. Failure to timely report any such occurrence shall be considered a violation of probation.

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

4. **Interview with the Board.** Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear at two or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

5. **Cooperate with Board Staff.** Respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

6. **Notice to Employers.** During the period of probation, Respondent shall notify all present and prospective employers of the Decision in case number 4993 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within 30 days of the effective date of this Decision, and within 15 days of Respondent undertaking any new employment, Respondent shall cause his direct supervisor, pharmacist-in-

charge (including each new pharmacist-in-charge employed during Respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the Decision in case number 4993 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the Board.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the Decision in case number 4993 in advance of the Respondent commencing work at each pharmacy. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this Decision, and within 15 days of Respondent undertaking any new employment by or through a pharmacy employment service, Respondent shall cause his direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that he or she has read the Decision in case number 4993 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

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

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

7. **Reimbursement of Board Costs.** As a condition precedent to successful completion of probation, Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$1,600. Respondent shall make payments on a quarterly basis during the term of probation. There shall be no deviation from this schedule absent prior written approval by the Board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board its costs of investigation and prosecution.

8. **Probation Monitoring Costs.** Respondent shall pay any costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

9. **Status of License.** Respondent shall, at all times while on probation, maintain an active, current pharmacy technician license with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

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

10. **License Surrender While on Probation/Suspension.** Following the effective date of this Decision, should Respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his pharmacy technician license to the Board for surrender. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of Respondent's license history with the Board.

Upon acceptance of the surrender, Respondent shall relinquish his pharmacy technician license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

11. **Notification of a Change in Name, Residence Address, Mailing Address or Employment.** Respondent shall notify the board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent shall further notify the Board in writing within 10 days of a change in name, residence address and mailing address, or phone number. Failure to timely notify the Board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

12. **Tolling of Probation.** Except during periods of suspension, Respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 120 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, Respondent must nonetheless comply with all terms and conditions of probation.

Should Respondent, regardless of residency, for any reason (including vacation) cease working as a pharmacy technician for a minimum of 120 hours per calendar month in California, Respondent must notify the Board in writing within 10 days of cessation of work and must further notify the Board in writing within 10 days of the resumption of the work. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 36 months.

"Cessation of work" means calendar month during which Respondent is not working for at least 120 hours as a pharmacy technician, as defined in Business and Professions Code section 4115. "Resumption of work" means any calendar month during which Respondent is working as a pharmacy technician for at least 120 hours as a pharmacy technician as defined by Business and Professions Code section 4115.

13. **Violation of Probation.** If Respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

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

14. **Completion of Probation.** Upon written notice by the Board indicating successful completion of probation, Respondent's pharmacy technician license will be fully restored.

15. **Attend Substance Abuse Recovery Relapse Prevention and Support Groups.** Within 30 days of the effective date of this Decision, Respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California (e.g., AA, Narcotics Anonymous, etc.), which has been approved by the Board or its designee. Respondent must attend at least one group meeting per week unless otherwise directed by the Board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the

duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

16. **Random Drug Screening.** Respondent, at his own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the Board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee. At all times Respondent shall fully cooperate with the Board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the Board or its designee, Respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of Respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension of work by Respondent. Respondent may not resume work as a pharmacy technician until notified by the Board in writing.

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

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

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

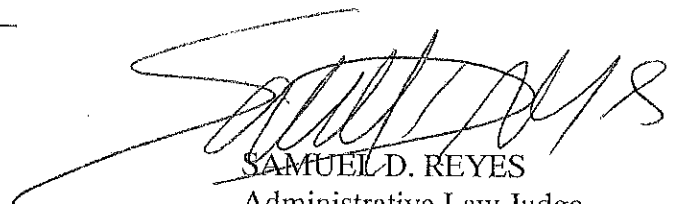
17. **Work Site Monitor.** Within 10 days of the effective date of this Decision, Respondent shall identify a work site monitor, for prior approval by the Board, who shall be responsible for supervising Respondent during working hours. Respondent shall be responsible for ensuring that the work site monitor reports in writing to the Board quarterly. Should the designated work site monitor determine at any time during the probationary period that Respondent has not maintained sobriety, he or she shall notify the Board immediately, either

orally or in writing as directed. Should Respondent change employment, a new work site monitor must be designated, for prior approval by the Board, within 10 days of commencing new employment. Failure to identify an acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to the Board, shall be considered a violation of probation.

18. **Notification of Departure.** Prior to leaving the probationary geographic area designated by the Board or its designee for a period greater than 24 hours, Respondent shall notify the Board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

19. **Abstain from Drugs and Alcohol Use.** Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board or its designee, Respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of Respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he is not in the same physical location as individuals who are using illicit substances even if Respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

DATED: 6/28/16


SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 KIMBERLEE D. KING
Deputy Attorney General
4 State Bar No. 141813
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2581
6 Facsimile: (213) 897-2804
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:

Case No. 4993

13 **LAWRENCE EASTMAN GOODERMONT**
14 **AKA LARRY EASTMAN GOODERMONT**
15 **1417 North Vista #101**
16 **Los Angeles, CA 90046**

A C C U S A T I O N

17 **Pharmacy Technician Registration**
18 **No. TCH 49322**

Respondent.

19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about August 25, 2003, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 49322 to Lawrence Eastman Goodermont aka Larry Eastman
25 Goodermont ("Respondent"). The Pharmacy Technician Registration was in full force and effect
at all times relevant to the charges brought herein and will expire on January 31, 2017, unless

26 renewed.

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 unless otherwise indicated.

5 4. Section 4300.1 of the Code states:

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

11 5. Section 4300 of the Code states, in pertinent part:

12 "(a) Every license issued may be suspended or revoked.

13 "(b) The board shall discipline the holder of any license issued by the board, whose default
14 has been entered or whose case has been heard by the board and found guilty, by any of the
15 following methods:

16 "(1) Suspending judgment.

17 "(2) Placing him or her upon probation.

18 "(3) Suspending his or her right to practice for a period not exceeding one year.

19 "(4) Revoking his or her license.

20 "(5) Taking any other action in relation to disciplining him or her as the board in its
21 discretion may deem proper.

22 STATUTORY PROVISIONS

23 6. Section 4060 of the Code states, in pertinent part:

24 "No person shall possess any controlled substance, except that furnished to a person upon
25 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
26 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
27 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
28 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,

1 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
2 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
3 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
4 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
5 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
6 labeled with the name and address of the supplier or producer. . . ."

7 7. Section 4301 of the Code states, in pertinent part:

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

11

12 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
13 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
14 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
15 to the extent that the use impairs the ability of the person to conduct with safety to the public the
16 practice authorized by the license.

17

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

20

21 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
22 violation of or conspiring to violate any provision or term of this chapter or of the applicable
23 federal and state laws and regulations governing pharmacy, including regulations established by
24 the board or by any other state or federal regulatory agency. . . ."

25 8. Health and Safety Code Section 11364, subdivision (a) states, in pertinent part:

26 "It is unlawful to possess an opium pipe or any device, contrivance, instrument, or
27 paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in
28 subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of Section 11054, specified in

1 paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or
2 (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a
3 controlled substance that is a narcotic drug classified in Schedule III, IV, or V.”

4 9. Health and Safety Code Section 11377, subdivision (a) states, in pertinent part:

5 “[E]very person who possesses any controlled substance which is (1) classified in Schedule
6 III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054,
7 except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of
8 subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section
9 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the
10 prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state,
11 shall be punished by imprisonment in a county jail....”

12 CONTROLLED SUBSTANCE/DANGEROUS DRUG

13 10. Methamphetamine is a controlled substance pursuant to Health and Safety Code
14 section 11055, subdivision (d)(2) and is a dangerous drug pursuant to Code section 4022.

15 COST RECOVERY

16 11. Section 125.3 of the Code states, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 FIRST CAUSE FOR DISCIPLINE

21 (Unlawful Possession of a Controlled Substance)

22 12. Respondent is subject to disciplinary action under Code sections 4060 and 4301,
23 subdivisions (o) on the grounds of unprofessional conduct in that Respondent violated the
24 Pharmacy Law by unlawfully possessing a controlled substance, to wit: methamphetamine. The
25 circumstances are as follows:

26 (a) On or about March 17, 2013, Los Angeles Police Department officers conducted a
27 routine traffic stop of Respondent's vehicle. During a search of the vehicle, an officer recovered a
28 small black shoulder bag that contained a brown pill canister. Inside the canister was a clear

1 plastic baggie with a clear crystalline substance resembling methamphetamine that weighed 0.37
2 grams. The officer also recovered a clear glass pipe with a glass bowl at the end containing a
3 charred white residue consistent with methamphetamine. Respondent admitted that the
4 methamphetamine was his and that he had been smoking it for 10 years.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unlawful Use of a Controlled Substance)**

7 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (h)
8 on the grounds of unprofessional conduct in that Respondent administered to himself a controlled
9 substance to wit: methamphetamine, to the extent or in a manner dangerous or injurious to
10 himself or to the extent that the use impaired his ability to conduct with safety to the public the
11 practice authorized by his pharmacy technician registration. On or about March 17, 2013,
12 Respondent admitted to a Los Angeles Police Department officer that he had smoked
13 methamphetamine for 10 years.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Violation of State Laws Regulating Controlled Substance)**

16 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
17 in conjunction with Health & Safety Code Sections 11364, subdivision (a) and 11377, subdivision
18 (a) on the grounds of unprofessional conduct in that Respondent violated California statutes
19 regulating controlled substances and dangerous drugs. Complainant refers to, and by this
20 reference incorporates, the allegations set forth above in paragraphs 12 and 13 inclusive, as
21 though fully set forth fully herein.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

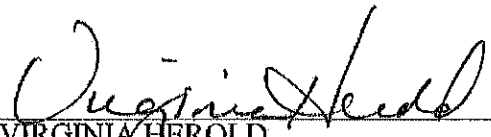
28 ///

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 49322, issued to Lawrence Eastman Goodermont aka Larry Eastman Goodermont;
2. Ordering Lawrence Eastman Goodermont aka Larry Eastman Goodermont 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: 9/12/15 
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

LA2013510639/51468204.doc/02.28.2014