

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

In the Matter of the Accusation Against:

RAVINDER PADDA
2933 Campbell Ln.
Tracy, CA 95382

Pharmacy Technician No. TCH 51508

Respondent.

Case No. 3644

OAH No. 2010080932

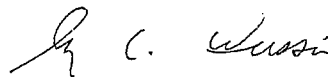
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This decision shall become effective on May 11, 2011.

It is so ORDERED April 11, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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PROPOSED DECISION

This matter was heard before Karen J. Brandt, Administrative Law Judge, Office of Administrative Hearings, State of California, on March 1, 2011, in Sacramento, California.

Elena L. Almanzo, Deputy Attorney General, represented Virginia Herrold (complainant), Executive Officer, Board of Pharmacy (Board), Department of Consumer Affairs.

Ravinder Padda (respondent) appeared on his own behalf.

Evidence was received, the record was closed, and the matter was submitted for decision on March 1, 2011.

FACTUAL FINDINGS

1. On October 1, 2003, the Board issued Pharmacy Technician Registration No. TCH 95382 (registration) to respondent. Respondent's registration was in effect at all times relevant to this matter. Complainant seeks to revoke respondent's registration based upon his three alcohol-related convictions described below.

2. On March 15, 2007, in the San Joaquin County Superior Court, in Case No. TM109899A, respondent, on a plea of nolo contendere, was convicted of violating Vehicle Code section 23152, subdivision (b), driving while having a .08 percent or higher blood alcohol content (BAC), a misdemeanor, with an enhancement for a prior Vehicle Code violation. Imposition of sentence was suspended, and respondent was placed on probation for three years. Respondent was ordered to participate in an SB 38 Drinking Driver

Program. He was also ordered to serve 10 days in jail, but was given credit for two days served, and was permitted to serve his jail time under an alternative work program. In addition, he was ordered to pay fines and fees.

3. The incident underlying respondent's 2007 conviction occurred on December 8, 2006, at 2:50 a.m. Respondent was stopped by a police officer who observed him weaving slowly between lanes. Respondent's BAC was measured at .14 / .13 percent.

4. On February 11, 2009, in the San Joaquin County Superior Court, in Case No. TM113127A, respondent, upon a plea of nolo contendere, was convicted of violating Vehicle Code section 23152, subdivision (b), driving while having a .08 percent or higher BAC, a misdemeanor, with an enhancement for two prior Vehicle Code violations. Imposition of sentence was suspended, and respondent was placed on probation for five years. He was ordered to participate in an SB 38 Drinking Driver Program, and to install an ignition interlock device in his vehicle for one year. He was also ordered to serve 120 days in jail, but was given credit for one day served, and was permitted to serve his jail time under an alternative work program. In addition, he was ordered to pay fines and fees.

5. The incident underlying respondent's 2009 conviction occurred on December 16, 2008. Respondent's BAC was measured at .13 / .12 percent.

6. On January 26, 2010, in the San Joaquin County Superior Court, in Case No. TM11423A, respondent, upon a plea of nolo contendere, was convicted of violating Vehicle Code section 23103, reckless driving involving alcohol, a misdemeanor. Imposition of sentence was suspended, and respondent was placed on probation for three years. He was ordered to participate in an approved alcohol program. He was also ordered to serve 60 days in jail, but was given credit for two days served, and was permitted to serve his jail time under an alternative work program. In addition, he was ordered to pay fines and fees. As a result of his 2010 conviction, the terms of his 2009 conviction were modified, and respondent was ordered to serve 120 days on home detention.

7. The incident underlying respondent's 2010 conviction occurred on November 22, 2009. The police officer who arrested respondent observed him speeding and failing to stop at a stop sign. At the time, respondent was driving in violation of his restricted driver's license. Respondent's BAC was measured at .08 / .09 percent.

8. Respondent was born on March 24, 1971. Even though he received his registration in 2003, he has not worked as a pharmacy technician, but he did volunteer at Kaiser Permanente for a period of time. He is currently employed in retail, selling automobile parts.

9. Respondent is divorced. He has a five-year-old child, but his ex-wife has custody and he is not currently paying child support.

10. At the hearing, respondent testified that, after his 2007 conviction, he completed an alcohol program and participated in an out-patient alcohol rehabilitation program at St. Joseph's Hospital. After his 2009 conviction, he attended Alcoholics Anonymous (AA) meetings three times a week, for the period of time ordered by the court. The terms of his 2010 conviction did not require him to attend AA, but respondent still "pops in" from time to time when he feels the urge to drink. Respondent is currently participating in an 18-month alcohol program, which includes 26 group sessions, 20 hours of education, and 20 face-to-face meetings with a counselor. Respondent enrolled in this 18-month program on March 1, 2010. He is scheduled to complete this program in September 2011.

11. Respondent testified that he realized he had a "big problem" with alcohol after his third conviction. Although he is currently participating in an 18-month alcohol program, he has not completely abstained from drinking. He drank alcohol three days before the hearing. He works five days a week. He testified that he does not drink on the five days he works, but he still drinks on the two days he has off. At the hearing, he admitted that he needs more help overcoming his cravings for alcohol. He currently seeks help from a friend, who has similar issues with alcohol, and from his priest at his Sikh temple.

12. In California Code of Regulations, title 16, section 1769, subdivision (b), the Board has set forth criteria for evaluating the rehabilitation of a licensee who has been convicted of a crime.¹

13. At the hearing, respondent testified in a candid and direct fashion. He admitted his alcohol abuse and took responsibility for his illegal conduct. He is currently enrolled in an 18-month alcohol program.

¹ California Code of Regulations, title 16, section 1769, subdivision (b), provides:

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

14. But when all the evidence is considered in light of the criteria set forth in California Code of Regulations, title 16, section 1769, subdivision (b), respondent did not show that he has engaged in sufficient rehabilitation to retain his registration. He had three alcohol-related convictions in three years. He drove under the influence of alcohol in violation of the terms of his probation and a restriction imposed upon his driver's license. His most recent conviction was about a year ago. The criminal probation from that conviction is not scheduled to end until 2013. He has not completed his 18-month alcohol program. He offered no evidence from any family, friends, doctors, counselors, or employers attesting to his rehabilitation. Most importantly, he has not completely abstained from the use of alcohol.

15. The Board and the public expect a pharmacy technician to act with responsibility, maturity and integrity. Respondent's three alcohol-related convictions in three years and his lack of sufficient rehabilitation show that it would be against the public interest, safety and welfare to allow respondent to retain his registration. Respondent's registration must therefore be revoked.

16. Complainant has requested costs of investigation and enforcement pursuant to Business and Professions Code section 125.3 in the total amount of \$2,040. In support of this request, complainant submitted a Declaration from the Deputy Attorney General and a computer printout of the tasks performed by the Office of the Attorney General. From the information presented, it appears that the time spent was reasonable, and the tasks necessary and appropriate to the development and presentation of the case. At the hearing, respondent did not object to complainant's request for costs.

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 4301, the Board may take disciplinary action against the holder of any license who has engaged in unprofessional conduct, including:

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

[¶] ... [¶]

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

[¶] ... [¶]

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

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

2. Business and Professions Code section 118, subdivision (c), defines the term “license” as used in statutory provisions such as section 4301 to include respondent’s pharmacy technician registration.

3. Respondent has had three convictions relating to the use of alcohol in the past four years. (Findings 2, 4, and 6.) Complainant therefore established cause to discipline respondent’s registration pursuant to Business and Professions Code section 4301, subdivision (k).

4. Respondent’s three convictions establish that he used alcohol to an extent and in a manner dangerous to himself and the public. Complainant therefore established cause to discipline respondent’s registration pursuant to Business and Professions Code section 4301, subdivision (h).²

5. As set forth in Findings 13 through 15, while respondent’s efforts toward recovery should be commended and encouraged, respondent did not establish that he has been sufficiently rehabilitated to establish that it would be consistent with the public interest, safety and welfare to allow him to retain his registration. Respondent’s registration should therefore be revoked.

6. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated the licensing act may be ordered to pay the reasonable costs of investigation and prosecution of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee’s subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

² Complainant did not establish cause to discipline respondent’s registration under Business and Professions Code section 4301, subdivisions (f) and (j).

7. As set forth in Finding 16, complainant has requested costs of investigation and enforcement pursuant to Business and Professions Code section 125.3 in the total amount of \$2,040. These costs are reasonable in light of the nature of the wrongdoing alleged in this matter. At the hearing, respondent did not object to the requested costs. He was not successful in getting any of the charges dismissed. Under all the circumstances, it is appropriate to order respondent to pay the full amount of the costs of investigation and enforcement if and when his registration is reinstated.

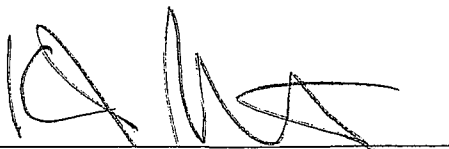
ORDER

1. Pharmacy Technician Registration No. TCH 51508, issued to respondent Ravinder Padda is REVOKED. Respondent shall relinquish his technician registration to the Board within ten (10) days of the effective date of this decision. Respondent may not reapply or petition the Board for reinstatement of his revoked technician registration for three (3) years from the effective date of this decision.

2. As a condition precedent to reinstatement of his revoked technician registration, respondent shall be certified as defined in Business and Professions Code section 4202, subdivision (a)(4), and provide satisfactory proof of certification to the Board.

3. As a condition precedent to reinstatement of his revoked technician registration, respondent shall reimburse the Board for its costs of investigation and prosecution in the amount of \$2,040. This amount shall be paid in full prior to the reinstatement of respondent's revoked technician registration, unless otherwise ordered by the Board.

DATED: March 9, 2011



KAREN J. BRANDT
Administrative Law Judge
Office of Administrative Hearings

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

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Case No. 3644

13 **RAVINDER PADDA**
2933 Campbell Ln.
14 Tracy, CA 95382
Pharmacy Technician Registration No. TCH
51508

A C C U S A T I O N

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about October 1, 2003, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 51508 to Ravinder Padda (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on March 31, 2011, unless renewed.
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JURISDICTION

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

4. Section 4300 of the Code states:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

"(1) Medical or psychiatric evaluation.

"(2) Continuing medical or psychiatric treatment.

"(3) Restriction of type or circumstances of practice.

"(4) Continuing participation in a board-approved rehabilitation program.

"(5) Abstention from the use of alcohol or drugs.

"(6) Random fluid testing for alcohol or drugs.

"(7) Compliance with laws and regulations governing the practice of pharmacy.

1 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
2 certificate of licensure for any violation of the terms and conditions of probation. Upon
3 satisfactory completion of probation, the board shall convert the probationary certificate to a
4 regular certificate, free of conditions.

5 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
6 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
7 shall have all the powers granted therein. The action shall be final, except that the propriety of
8 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
9 Civil Procedure."

10 5. . . Section 4301 of the Code states:

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

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

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

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

24 "(k) The conviction of more than one misdemeanor or any felony involving the use,
25 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
26 combination of those substances.

27 "(l) The conviction of a crime substantially related to the qualifications, functions, and
28 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13

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

16 6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licensee 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 (Conviction of Crimes)

22 7. Respondent is subject to disciplinary action under section 4301 (f), (j), and (k) for
23 convictions of crimes substantially related to the practice of a pharmacy technician as set forth
24 below. The circumstances are as follows:

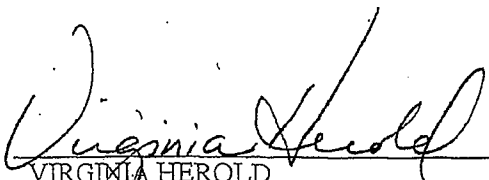
25 8. On or about January 26, 2010, in *People v. Ravinder Singh Padda*, Superior Court of
26 California, County of San Joaquin; Case No. TM11423A, Respondent entered a plea of nolo
27 contendere to one count of a violation of Vehicle Code section 23103 (reckless driving involving
28 alcohol.)

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2. Ordering Ravinder Padda to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 5/28/10



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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