

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

In the Matter of the Statement of Issues Against:

**DENNIS OCHOA**  
36570 Bettencourt St.  
Newark, CA 94560

Pharmacy Technician Applicant

Respondent.

Case No. 3856

OAH No. 2011040723

**DECISION**

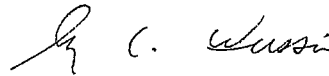
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This decision shall become effective on November 17, 2011.

It is so ORDERED October 18, 2011.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

BEFORE THE  
BOARD OF PHARMACY  
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STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

DENNIS OCHOA,

Respondent.

Case No. 3856

OAH No. 2011040723

**PROPOSED DECISION**

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on July 18, 2011.

Kim M. Settles, Deputy Attorney General, represented complainant, Virginia K. Herold, the Executive Officer of the California State Board of Pharmacy.

Respondent Dennis James Ochoa represented himself and was present throughout the administrative hearing.

The record was left open for respondent to submit proof of attendance at the Mills-Peninsula Outpatient Program and signed performance evaluations from his work for Mills-Peninsula Health Services, and a response from complainant. The documents were timely received from respondent on July 22, 2011. No response was received from complainant. The matter was submitted for decision on August 9, 2011.

**FACTUAL FINDINGS**

1. Virginia K. Herold brought the Statement of Issues solely in her official capacity as the Executive Officer of the California State Board of Pharmacy (Board).

2. Respondent submitted an application for a license as a pharmacy technician on September 25, 2009. Respondent certified under penalty of perjury that the statements contained in the application were true. The Board denied the application on June 29, 2010.

*Respondent's Criminal History*

3. On May 18, 1998, in the Municipal Court of the State of California, County of Alameda, respondent was convicted of violating Vehicle Code section 23152, subdivision (a) (driving under the influence), a misdemeanor. Imposition of sentence was suspended and

respondent was placed on probation for three years on terms that included serving 10 days in the county jail, attending drinking driver school, and the payment of various fines and fees.

4. On January 4, 2002, in the Municipal Court of the State of California, County of San Diego, respondent was convicted of violating Vehicle Code section 23152, subdivision (a) (driving under the influence), a misdemeanor.

5. On June 23, 2004, in the Superior Court of the State of California, County of Monterey, respondent was convicted of violating Vehicle Code section 23153, subdivision (a) (driving under the combined influence of alcohol and drugs and causing injury), a felony. Imposition of sentence was suspended and respondent was placed on probation for a period of five years, on conditions that included serving one year in the county jail, a five year driver's license suspension, abstaining from alcohol and drugs, completion of an in-custody substance abuse recovery program and any subsequent substance abuse treatment directed by the probation officer, and the payment various fines and fees. The court allowed respondent to be released to a long-term residential treatment program after he served 270 days in custody.

6. The factual circumstances underlying this conviction are that on March 21, 2004, respondent drove a vehicle while under the combined influence of alcohol and drugs, and caused an accident, injuring himself and his passenger.

7. On July 15, 2009, in the Superior Court of the State of California, County of San Mateo, respondent was convicted of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol content above the legal limit), a misdemeanor. Imposition of sentence was suspended and respondent was placed on supervised probation for a period of two years, followed by unsupervised probation for a period of two years. The terms of his probation included serving eight months through the sheriff's alternative sentencing bureau program, completing the multiple offender drinking driver program, abstaining from drinking alcohol, using a certified ignition interlock device on any vehicle before driving for a period of three years and the suspension of his driver's license for two years.

8. The factual circumstances underlying this conviction are that on May 17, 2009, California Highway Patrol officers observed respondent speeding and weaving on Highway 101. After observing objective signs of intoxication, and administering field sobriety tests, the officers arrested respondent for driving under the influence; he was taken to the station where his breath test registered a 0.21 blood alcohol content.

9. On July 15, 2009, in the Superior Court of the State of California, County of San Mateo, respondent was convicted of violating Vehicle Code section 31 (giving false information to a police officer), a misdemeanor. Imposition of sentence was suspended and respondent was placed on court probation for a period of one year to run concurrently with his probation in his July 15, 2009 conviction for violating Vehicle Code section 23152. Respondent was also ordered to pay various fines and fees.

10. The factual circumstances underlying this conviction are that on March 22, 2009, respondent was pulled over while driving with a suspended license. He gave false information to a police officer concerning his identity.

11. On March 7, 2007, in the Superior Court of California, County of Santa Clara, respondent was arrested for violating Penal Code section 647, subdivision (f) (disorderly conduct/intoxication in a public place), a misdemeanor. After respondent provided proof of attendance at ten Alcoholics Anonymous meetings, the charge was dismissed.

12. The factual circumstances underlying this conviction were that on October 15, 2006, police officers broke up a fight in a parking lot and subsequently arrested respondent for being intoxicated and disorderly in a public place.

13. On March 23, 1998, in the Superior Court of Reno, Nevada, respondent was convicted of obstructing justice and resisting arrest. The conviction arose out a fight in public and his resistance to the arrest. Respondent did not list this conviction on his application.

14. Respondent's numerous driving under the influence convictions, and his conviction for being drunk in public and resisting arrest, are substantially related to the qualifications, functions and duties of a pharmacy technician because they demonstrate a pattern of criminal behavior involving the abuse of alcohol and disrespect for the law. These convictions also establish unprofessional conduct because they involve the use of an alcoholic beverage to a dangerous extent, and constitute criminal convictions that involve the use and consumption of alcohol. Respondent's conviction for giving false information to a police officer is also substantially related to the qualifications, functions and duties of a pharmacy technician because it involves dishonesty; and it demonstrates unprofessional conduct because it involved dishonesty and making a false statement.

#### *Respondent's Evidence*

15. Respondent concedes that his background demonstrates immaturity and bad decision-making. He began to abuse alcohol at age 13. When he was drinking, he did not think logically, and he made poor choices.

16. His 2007 arrest for being drunk in public occurred after a celebration when his younger brother returned from a tour in Iraq. Following the celebration, there was a fight in the street and a number of people were arrested. He was directed to attend ten AA meetings and subsequently the case was dismissed.

17. The case for obstruction of justice and resisting arrest from Reno, Nevada occurred after a New Year's Eve celebration when a fight broke out in the street. Respondent testified credibly that he intended to list all of his convictions, but due to the amount of time that has passed since this conviction (12 years) he simply forgot about it.

18. The 2004 conviction for driving under the influence and causing an accident that resulted in injury occurred after respondent returned from serving in Operation Freedom in the Persian Gulf. He and another sailor had been out drinking together and they were injured when he lost control of the vehicle on their way back to the base.

19. Respondent's conviction for giving false information to a police officer occurred when he was driving to work after lunch with a suspended license. Respondent testified that he panicked and gave the police officer his roommate's name out of fear of going to prison or back into treatment. He told the officer the truth several minutes later.

20. When respondent was arrested the last time, in May 2009, he realized that he was hurting himself and the people around him and it was time to stop. He has not had any alcohol since June 8, 2009.

21. Janice Braunstein, M.S., a chemical dependency therapist with Mills-Peninsula Health Services, wrote a letter confirming that respondent attended the facility's Outpatient Chemical Dependency Unit from June 9, 2009 through October 20, 2009. He participated in treatment three days per week, consisting of two primary group therapy sessions each week, a step study group, a family principles group, a recovery skills group and a relapse prevention group. He also met with a dependency therapist weekly and participated in Alcoholics Anonymous meetings three to five times per week. Braunstein reports that respondent remained sober throughout the treatment and during the year that he participated in the aftercare program.

22. Glenn P. Bautista, a Deputy Probation Officer with San Mateo County, wrote a letter on January 20, 2011, to confirm that respondent had been compliant with the terms of probation, had paid off all fines and fees, was enrolled in the multiple offender program and was on track to have his supervised probation revert to unsupervised probation on July 15, 2011. Respondent testified that he has since completed the multiple offender program and is now on unsupervised probation which is scheduled to terminate on July 15, 2013. According to respondent, all other court requirements have been met in all cases. Respondent's driver's license has been fully restored.

23. Respondent has been employed by Mills-Peninsula Hospital for approximately seven years. He worked for several years in the pharmacy as a clerk. Mills-Peninsula paid for him to attend pharmacy technician classes at Boston Reed College. Respondent was laid off from the pharmacy at Mills-Peninsula in May 2011, because the clerk position was eliminated and respondent is not a licensed pharmacy technician. He has been working in food services at Mills-Peninsula since that time. In order to further his knowledge in this area, respondent has enrolled in a nutrition course at Merritt College.

24. Christopher Yanez, a pharmacy technician instructor at Boston Reed College, submitted a character reference on respondent's behalf. Yanez reports that he had respondent in his pharmacy technician class from September 2008 until June 2009. Respondent completed the course in the 95<sup>th</sup> percentile and often volunteered to lend a hand

to other students. Yanez believes respondent would be a true asset to any company and a competent pharmacy technician.

25. Cindy Ahern-Patel submitted a letter to support respondent's application. Ahern-Patel has known respondent for seven years. She was his supervisor for three years at Mills-Peninsula Health Services, and states "[w]hile in my department he excelled in all areas of performance." Ahern-Patel considers him to be dependable, responsible and deserving of this opportunity.

26. Christine Hamadou, a pharmacist at Mills-Peninsula, also submitted a letter for respondent. She has worked with respondent for two and one-half years. Hamadou reports that respondent is always punctual, proactive, detail-oriented, trustworthy and a team player. Hamadou recommends that respondent receive his pharmacy technician license.

27. Jeffrey Chiu, who has worked at Mills-Peninsula with respondent since August 2007, also submitted a character letter for respondent. Chiu has served as respondent's charge pharmacist on numerous shifts. He reports witnessing respondent's "outstanding work ethics and positive attitude" as well as his professionalism, punctuality, attention to detail, motivation and positive attitude. Chiu has trusted him as the pharmacy distribution clerk and believes he can be trusted at all times.

28. Certified pharmacy technician, Matthew J. Madamba, another work colleague of respondent's, also submitted a letter praising respondent's "team player" attitude, organization skills, punctuality and enthusiasm. He believes respondent has learned from his mistakes and Madamba would highly recommend him. Respondent also submitted his Mills-Peninsula performance evaluations which further demonstrate that he is a valued employee.

29. Respondent's father, Joseph Ochoa, testified at hearing. Respondent started drinking at age 13, and for 15 years respondent drank to excess, was dishonest and selfish. Ochoa kicked his son out of the family home in 1999 due to his behavior. Respondent entered the Navy, and his family hoped it would straighten him out. In four years, respondent served two tours of duty in Iraq and Afghanistan, but continued to drink to excess. Joseph Ochoa is very proud of the changes respondent has made over the past two years. Respondent works long hours at Mills-Peninsula and always volunteers for extra assignments. Respondent has made new friends and is thinking about his future. Joseph Ochoa speaks to respondent everyday over the telephone and sees him every two weeks. After respondent stopped drinking alcohol, he changed completely. He is very dedicated to his job, has enrolled in college, and has turned his life around.

30. Respondent's mother, Anita Ochoa, testified at hearing and submitted a character letter on her son's behalf. Respondent has demonstrated his commitment to a sober lifestyle and she is very proud of him. Anita Ochoa reports she has witnessed respondent become respectful and honest with his family, enthusiastic in pursuing his education and a loyal employee. Respondent now wants a future and decided to change for himself.

Respondent enjoys the full support of his parents in pursuing his desire to become a pharmacy technician.

31. Marc Acton, a longtime friend of respondent's, testified at hearing and submitted a character letter. Acton has known respondent for 26 years and considers him to be an honest, bright and loyal individual. As Acton and others moved on, they hoped respondent would change his ways. Three of respondent's friends have families now and Acton believes respondent wants to have a career and a family also. Acton and his fiancé made the decision to allow respondent to live with them since February 2010. They would not have invited him into their home if they did not trust his decision to live a sober lifestyle. He has not had any alcohol while he has been living with them. Respondent is the hardest working person Acton knows. He works long hours and is totally committed to his career at Mills-Peninsula. Acton's fiancé, Jennifer Sollecito, submitted a letter on respondent's behalf. Sollecito reports that in the year that she has been living with respondent, she has found him to be respectful, punctual and responsible. She has witnessed his commitment to sobriety while living in the same home.

32. Another lifelong friend of respondent's, Robert Cuevas, submitted a letter on his behalf. Cuevas is aware of the poor decisions that respondent has made, and the consequences he has paid as a result. Cuevas believes that respondent would be a tremendous asset to any employer and recommends he be given an opportunity, "based on the sober and mature life he is now living."

33. John Paul Rogers, a friend he met in 2009, at "Life Ring," a substance abuse recovery program, submitted a letter on respondent's behalf. Rogers drove respondent from jail to the train station each morning when respondent did not have a driver's license and needed to get to work. Rogers believes that respondent has truly turned his life around. He states that respondent's "continued sobriety and commitment to a great future has all the earmarks of a self-directed success."

#### *Board Opinion*

34. Rick Iknoian, an inspector with the Board for 12 years, testified at hearing. Iknoian obtained a Doctor of Pharmacy degree from the University of Pacific in 1983. He currently oversees the drug rehabilitation program at the Board. He specializes in reviewing cases of substance abuse in the pharmacy environment, including assessing whether an individual with criminal convictions relating to substance abuse is appropriate for work in a pharmacy.

35. Having reviewed respondent's criminal background, as well as his efforts at rehabilitation, Iknoian is of the opinion that respondent is not an appropriate candidate for a pharmacy technician license at this time. Pharmacy technicians must be honest, exhibit consistent judgment and never be affected by drugs or alcohol while at work. The number of respondent's criminal convictions, the length of time during which he abused alcohol, and the instance of lying to a police officer, lead him to his opinion. The Board prefers to see at

least five years of sobriety following a long history of substance abuse, when it is considering licensure.

## LEGAL CONCLUSIONS

1. Business and Professions Code section 480, subdivision (a)(1), authorizes the denial of a license of a license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions or duties of the licensed business or profession. Subdivision (a)(2) authorizes the denial of a license where the applicant has done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another. Subdivision (a)(3) authorizes the denial of a license where the applicant has done any act which if done by a licentiate would be grounds for suspension or revocation of the license. Subdivision (c) authorizes the denial of a license where the applicant knowingly made a false statement of fact required to be revealed in the application.

2. Business and Professions Code section 4300 provides that the Board may refuse a license to any applicant who is guilty of unprofessional conduct. Business and Professions Code section 4301 defines unprofessional conduct as including "the commission of any act involving 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 a misdemeanor; and knowingly making or signing any certificate or other document that falsely represents facts; and the administering to oneself, of any controlled substance, or the use of any dangerous drug or alcoholic beverage to the extent or in a manner as to be dangerous or injurious to oneself, or to any other person or to the public.

3. On his application for licensure, respondent listed numerous criminal convictions, but inadvertently failed to disclose his 1998 conviction for resisting arrest. (Finding 17.) Business and Professions Code section 480, subdivision (c), authorizes the Board to deny a license when the applicant knowingly makes a false statement on his application. Here, applicant's failure to disclose his 1998 conviction was inadvertent rather than knowing, and as such there is no cause to deny respondent's application on this basis.

4. By reason of the matters set forth in Findings 3 through 14, however, there is cause to deny respondent's application. Respondent's criminal convictions are substantially related to the qualifications, functions and duties of a pharmacy technician. Moreover, they demonstrate unprofessional conduct as defined in Business and Professions Code section 4301.

5. The issue is whether respondent has demonstrated sufficient rehabilitation. Respondent has presented an impressive amount of evidence of the support he enjoys from family, friends and colleagues at work. He has also presented evidence demonstrating that he has cooperated with his probation officer and been compliant with the terms of probation. Respondent has proved that he has lived a sober life for just over two years, and given the

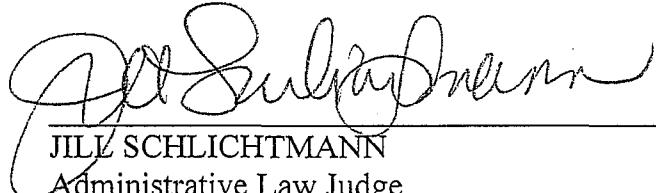


extent and length of his substance abuse, that is very commendable. By all accounts, respondent is a very likeable, and especially since gaining his sobriety, a hard-working, trustworthy and respectful individual. He appears to be on his way to earning a successful career and life. (Findings 15 to 33.) However, as the Board representative concluded, respondent suffered from a very lengthy and serious addiction, and he has only relatively recently confronted the problem and turned it around. Given the history of addiction and criminal behavior, more time is needed for rehabilitation. Should respondent continue to stay sober, and successfully complete his probation, he may well be able to demonstrate the kind of rehabilitation that is required of an individual seeking a pharmacy technician license. At present, the protection of the public requires denial of respondent's application.

ORDER

The application of Respondent Dennis James Ochoa for a pharmacy technician license is denied.

DATED: 8/23/11

  
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JILL SCHLICHTMANN  
Administrative Law Judge  
Office of Administrative Hearings

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

14 In the Matter of the Statement of Issues  
Against:

15 **DENNIS OCHOA**  
16 **36570 Bettencourt Street**  
17 **Newark, California 94560**

18 Respondent.

Case No. 3856

**FIRST AMENDED STATEMENT OF  
ISSUES**

19  
20 Complainant alleges:

21 **PARTIES**

22 1. Virginia K. Herold (Complainant) brings this Statement of Issues solely in her official  
23 capacity as the Executive Officer of the California State Board of Pharmacy.

24 2. On or about September 25, 2009, the California State Board of Pharmacy received an  
25 application for registration as a Pharmacy Technician from Dennis James Ochoa (Respondent).

26 On or about August 26, 2009, Dennis James Ochoa certified under penalty of perjury to the

27 truthfulness of all statements, answers, and representations in the application. The Board denied  
28 the application on or about June 29, 2010.



1 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
2 combination of those substances.

3 “(1) The conviction of a crime substantially related to the qualifications, functions,  
4 and duties of a licensee under this chapter. . .”

5 6. Section 4310 of the Code states:

6 “Immediately upon the denial of any application for a license the board shall notify  
7 the applicant in writing. Within 10 days after the board mails the notice, the applicant may  
8 present his or her written petition for a license to the board. Upon receipt by the board of the  
9 written petition, proceedings shall be conducted in accordance with Chapter 5 (commencing with  
10 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.”

11 7. Section 480 of the Code states, in pertinent part:

12 “(a) A board may deny a license regulated by this code on the grounds that the  
13 applicant has one of the following:

14 “(1) Been convicted of a crime. A conviction within the meaning of this  
15 section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any  
16 action which a board is permitted to take following the establishment of a conviction may be  
17 taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on  
18 appeal, or when an order granting probation is made suspending the imposition of sentence,  
19 irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

20 “(2) Done any act involving dishonesty, fraud or deceit with the intent to  
21 substantially benefit himself or another, or substantially injure another, or

22 “(3) Done any act which if done by a licentiate of the business or profession in  
23 question, would be grounds for suspension or revocation of license.

24 “The board may deny a license pursuant to this subdivision only if the crime or  
25 act is substantially related to the qualifications, functions or duties of the business or profession  
26 for which application is made.

27 . . .

28 “(c) A board may deny a license regulated by this code on the ground that the

1 applicant knowingly made a false statement of fact required to be revealed in the application for  
2 such license.”

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 **(Conviction of Crimes)**

5 8. Respondent’s application is subject to denial under sections 4300, 4301, subdivision  
6 (l) and 480, subdivision (a)(1), in that he was convicted of the following crimes that are  
7 substantially related to the qualifications, functions, and duties of a registered pharmacy  
8 technician.,

9 A. On or about January 4, 2002, in San Diego County Municipal Court, Case No.  
10 M850201, entitled *People v. Ochoa, Dennis*, Respondent was convicted of violating Vehicle  
11 Code section 23152, subdivision (a) (driving under the influence).

12 The circumstances of the crime were that Respondent willfully and unlawfully drove a  
13 vehicle while under the influence of an alcoholic beverage.

14 B. On or about June 23, 2004, in Monterey County Superior Court, Case No. SS041295,  
15 entitled *The People of the State of California v. Dennis James Ochoa*, Respondent was convicted  
16 by his plea of guilty of violating Vehicle Code section 23153, subdivision (a) (driving under the  
17 combined influence of alcohol and drugs and causing bodily injury).

18 The circumstances of the crime were that on or about March 21, 2004, Respondent willfully  
19 and unlawfully drove a vehicle while under the combined influence of alcohol and a drug, lost  
20 control of his vehicle, “rolled” the vehicle, and caused bodily injury to his passenger.

21 C. On or about July 15, 2009, in San Mateo County Superior Court, Case No. NM38478,  
22 entitled *The People of the State of California v. Dennis James Ochoa*, Respondent was convicted  
23 by his plea of nolo contendere of violating Vehicle Code section 31 (false information to peace  
24 officer).

25 The circumstances of the crime were that on or about May 17, 2009, Respondent was  
26 detained on suspicion of driving under the influence and willfully and unlawfully gave false  
27 information regarding his identity to a police office, when he knew that such information was  
28 false.

1 D. On or about July 15, 2009, in San Mateo County Superior Court, Case No.  
2 SM364159A, entitled *The People of the State of California v. Dennis James Ochoa*, Respondent  
3 was convicted by his plea of nolo contendere of violating Vehicle Code section 23152,  
4 subdivision (b) (driving while having .08% or higher blood alcohol).

5 The circumstances of the crime were that on or about May 17, 2009, Respondent willfully  
6 and unlawfully drove a vehicle, while having .08% of alcohol in his blood.

7 E. On or about March 7, 2007, in Santa Clara County Superior Court, Case No.  
8 CC646022, entitled *People v. Ochoa, Dennis James*, Respondent was convicted of violating  
9 Penal Code section 647, subdivision (f) (disorderly conduct/intoxication in a public place).

10 The circumstances of the crime were that on or about October 15, 2006, Respondent was  
11 arrested for being intoxicated and disorderly in a public place.

12 F. On or about March 23, 1998, in Reno Superior Court, Case No. M247CR29754597,  
13 entitled *People v. Dennis Ochoa*, Respondent was convicted of obstruction of justice and resisting  
14 arrest.

15 The circumstances of the crime were that on or about January 31, 1997, Respondent was  
16 arrested for fighting in public and resisting arrest.

17 **SECOND CAUSE FOR DENIAL OF APPLICATION**

18 **(Conviction of a Crime Involving the Consumption of Alcohol)**

19 9. Respondent's application is subject to denial under sections 4300 and 4301,  
20 subdivision (k), on the grounds of unprofessional conduct in that Respondent was convicted of  
21 crimes involving the consumption of alcohol, as set forth in paragraph 8, subsections (A), (B),  
22 (D), (E), and (F), above.

23 **THIRD CAUSE FOR DENIAL OF APPLICATION**

24 **(Unprofessional Conduct: Misrepresentation Regarding the Nonexistence of Facts)**

25 10. Respondent's application is subject to denial under sections 4300 and 4301,  
26 subdivision (g), on the grounds of unprofessional conduct in that Respondent knowingly failed to  
27 disclose his 1998 conviction on his application for registration as a Pharmacy Technician, as set  
28 forth in paragraph 8, subdivision (F), above.

1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Acts Disqualifying Applicant: False Statement)**

3 11. Respondent's application is subject to denial under section 480, subdivision (c) in that  
4 he engaged in conduct which would have warranted denial of a license, as set forth in paragraph  
5 10 above.

6 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

7 **(Unprofessional Conduct: Commission of an Act Involving Dishonesty)**

8 12. Respondent's application is subject to denial under sections 4300 and 4301,  
9 subdivision (f), on the grounds of unprofessional conduct in that Respondent was convicted of  
10 providing false information to a peace officer, as set forth in paragraph 8, subdivision (C), above.

11 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

12 **(Conviction of a Crime)**

13 13. Respondent's application is subject to denial under sections 4300, 4301, subdivision  
14 (l) and 480, subdivision (a)(1), in that he was convicted of a crime that is substantially related to  
15 the qualifications, functions, and duties of a registered pharmacy technician.

16 A. On or about May 18, 1998, in Fremont-Newark-Union City Municipal Court, Case  
17 No. 179526, entitled *People v. Ochoa, Dennis James*, Respondent was convicted of violating  
18 Vehicle Code section 23152, subdivision (a) (driving under the influence).

19 The circumstances of the crime were that Respondent willfully and unlawfully drove a  
20 vehicle while under the influence of an alcoholic beverage.

21 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

22 **(Conviction of a Crime Involving the Consumption of Alcohol)**

23 14. Respondent's application is subject to denial under sections 4300 and 4301,  
24 subdivision (k), on the grounds of unprofessional conduct in that Respondent was convicted of  
25 crimes involving the consumption of alcohol, as set forth in paragraph 13, above.

26 **EIGHTH CAUSE FOR DENIAL OF APPLICATION**

27 **(Use of Alcoholic Beverages and Drugs)**

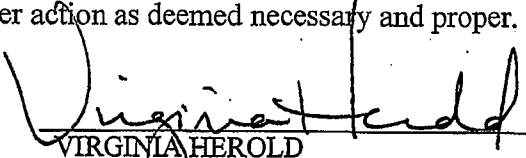
28 15. Respondent's application is subject to denial under section 4301, subdivision (h), on

1 the grounds of unprofessional conduct, by virtue of the convictions set forth in paragraph 8,  
2 subdivisions (A), (B), (D) and (E), and paragraph 13.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters alleged here,  
5 and that following the hearing, the California State Board of Pharmacy issue a decision:

- 6 1. Denying the application of Dennis James Ochoa for a Pharmacy Technician  
7 Registration;  
8 2. Taking such other and further action as deemed necessary and proper.

9 DATED: 3/8/11 

10 VIRGINIA HEROLD  
11 Executive Officer  
12 Board of Pharmacy  
13 Department of Consumer Affairs  
14 State of California  
15 Complainant

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