



California State Board of Pharmacy
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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
 DEPARTMENT OF CONSUMER AFFAIRS
 GOVERNOR EDMUND G. BROWN JR.

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 BOARD OF PHARMACY
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APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Ravi Dhruv</u>	Case No. <u>AC 4401</u>
Address of Record: <u>1585 Yosemite Dr</u> <u>Los Angeles, CA 90041</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC 4401, I hereby request to surrender my pharmacy technician license, License No. TCH 88006/30870476. 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, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pharmacy technician license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

[Signature]
 Applicant's Signature

[Signature]
 Executive Officer's Approval

3-5-2015
 Date

3/24/15
 Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

RAVI DHRUV,

Pharmacy Technician Registration No.
TCH 88006

Respondent.

Case No. 4401

OAH No.2014010840

FINAL DECISION AFTER REJECTION OF PROPOSED DECISION

Administrative Law Judge Amy Yerkey, State of California, Office of Administrative Hearings, heard this matter on July 22, 2014, in Los Angeles, California.

Heather Hua, Deputy Attorney General, represented Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Scott J. Harris, Attorney at Law, presented Ravi Dhruv (Respondent).

The matter was submitted for decision on July 22, 2014.

The proposed decision of the Administrative Law Judge was submitted to the Board of Pharmacy ("Board") on August 21, 2014. After due consideration thereof, the Board declined to adopt said proposed decision and thereafter on September 24, 2014 issued an Order of Non-adoption of Proposed Decision, and subsequently on October 21, 2014 issued an Order Fixing Date for Submission of Argument. Written argument having been timely received from complainant and respondent, and the time for filing written argument in this matter having been expired, and the entire record, including the transcript of said hearing having been read and considered, the Board, pursuant to Section 11517 of the Government Code, hereby makes the following decision:

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity.

2. The Board issued Pharmacy Technician Registration number TCH 88006 to Respondent on March 22, 2010. The registration has been in force and effect since its issuance and will expire on May 31, 2015, unless renewed. It has not been previously disciplined.

3. On April 5, 2011, the Los Angeles County Superior Court in case number 1MP01686, convicted Respondent his plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (a) (driving under the influence of an alcoholic beverage or a drug or under their combined influence), a misdemeanor. The court sentenced Respondent to 13 days in jail or to pay fines, and placed him on 36 months of probation, which included additional fines. The court also ordered him to complete a first-offender alcohol and drug educational program and to attend 52 Narcotics Anonymous meetings within six months.

5. The facts and circumstances surrounding the conviction are that on February 4, 2011, Respondent attended a party where he ingested alcohol and marijuana,¹ then drove his vehicle and rear-ended a truck.

6. Respondent's conviction is for a crime substantially related to the duties, functions, and qualifications of a pharmacy technician.

7. On March 28, 2007, the Los Angeles County Superior Court in case number 6GN06112, convicted Respondent his guilty plea, of violating Vehicle Code section 20002, subdivision (a) (hit and run), a misdemeanor. The court sentenced Respondent to 36 months of probation, on terms and conditions which included paying fines and performing community service.

8. The facts and circumstances surrounding the conviction are that on October 31, 2006, Respondent rear-ended a vehicle and then drove away from the scene before providing the other driver with pertinent information.

9. Respondent's conviction is for a crime substantially related to the duties, functions, and qualifications of a pharmacy technician.

¹ At the hearing, Complaint moved to admit a laboratory report into evidence. (Ex. 5, p. 80-81.) Respondent objected on hearsay grounds. The Administrative Procedures Act states that hearsay evidence may be admissible if it would be admissible over objection in civil actions. (Govt. Code § 11513, subd. (d).) Although the laboratory report meets the criteria to be received over objection pursuant to Evidence Code section 1280, little weight is given to the results contained therein because of the disclaimer contained on the face of the report: "The screening results listed are preliminary analytical results only. A more specific alternative chemical method must be used to obtain a confirmed analytical result." (Ex. 5, p. 80.) In any event, the laboratory report is not necessary to establish cause for discipline because Respondent admitted that he used marijuana and alcohol.

10. On October 11, 2011, a Carson City Sheriff's Department Officer arrested Respondent for violating Health and Safety Code section 11377, subdivision (a) (unlawful possession) and Penal Code section 647, subdivision (f) (public intoxication), both misdemeanors. The Los Angeles County Superior Court, in case number 1CP07264, dismissed both counts in furtherance of justice, pursuant to Penal Code section 1385.

11. The facts and circumstances surrounding the conviction are that Respondent attended Oktoberfest, became very intoxicated, and purchased two Alprazolam pills from an unknown person. He did not have a prescription for the pills.

12. Respondent's arrest for drug possession and public intoxication constitutes unprofessional conduct.

13. Respondent was sincerely remorseful for his conduct. With respect to his 2007 conviction for hit and run, he was driving slowly in traffic and accidentally hit the car in front of him. The other driver waved her arm out the window, and Respondent thought that she signaled for him to continue on. He was young and this was the first accident he had ever been in. He panicked and drove off. Respondent realized his mistake and would respond differently now. Regarding the 2011 incidents, he explained that he was going through a difficult emotional time because his best friend died and he lost his job. He has since learned healthier ways of coping and has stopped using all drugs and alcohol. He regularly attends Alcoholics Anonymous, even though he does not think that he is an addict, because he enjoys and has come to rely on the support and counsel of other AA members. He no longer associates with his former friends who partied. Respondent can assure the Board that he will not repeat his conduct because he has learned from his mistakes and he does not want to subject his parents to his transgressions again. He currently lives with his parents and attends church regularly. Respondent has successfully completed his criminal probation.

14. Respondent is 26 years old. He attended the pharmacy technician program at Glendale Community College and became licensed in 2010. He is currently employed at Skilled Nursing Pharmacy, where his duties are primarily customer service oriented. He answers phone calls and processes paperwork. He does not fill prescriptions or have access to medications. Respondent loves his profession because he enjoys helping people. Being a technician means a lot to him because it is a respectable profession.

15. Robert Morelli ("Morelli"), a pharmacist at Skilled Nursing Pharmacy, and Respondent's supervisor, testified at the hearing. Morelli has worked closely with Respondent for approximately one year. He thinks Respondent is bright, articulate and handles customer relations quite well. He thinks Respondent has great skill in interacting with others. Respondent is responsible and always arrives for work on time. Morelli has never observed Respondent appear to be under the influence of drugs or alcohol. Morelli is aware of Respondent's arrest and convictions, and that does not change his opinion of Respondent. He thinks Respondent is incredibly honest and has

good character. Morelli noted that Respondent spent time with sick children suffering from cancer around the holidays, and Morelli was touched by his maturity. Morelli thinks it would be a shame to revoke Respondent's registration, and he is willing to supervise Respondent if the Board chooses to place his registration on probation.

16. The Board has incurred \$7,547 in actual costs in investigating and prosecuting this matter.

17. Respondent submitted evidence regarding his finances in support of his argument that he is unable to pay the costs of investigation and prosecution. He is paid \$10.50 per hour and receives an estimated net monthly income of approximately \$1,200. After he pays rent, a car payment and car insurance, he is left with approximately \$100 per month for all of his remaining expenses.

18. Except for those previously addressed in this Decision, all other allegations in the Accusation are found to be unproved or surplusage.

LEGAL CONCLUSIONS

1. Cause exists under Business and Professions Code sections 490, 4300, and 4301, subdivision (l) to suspend or revoke Respondent's registration in that he was convicted of crimes that are substantially related to the duties, functions, and qualifications of a pharmacy technician, by reason of factual finding numbers 3 through 9.

2. Cause exists under Business and Professions Code sections 4300 and 4301 to suspend or revoke Respondent's registration in that he unlawfully possessed a controlled substance and used alcohol and drugs in a dangerous manner, by reason of factual finding numbers 3 through 12.

3. Cause exists pursuant to section 125.3 to order Respondent to pay the Board's costs of investigation and adjudication in this matter, by reason of factual finding numbers 3 through 12 and legal conclusion numbers 1 and 2.

In *Zuckerman v. State Board of Chiropractic Examiners*, 29 Cal.4th 32 (2002), the Supreme Court rejected a constitutional challenge to a cost regulation similar to 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, the board 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 board 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 board must consider a Respondent's ability to pay; and the board 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. *Zuckerman*, supra at 45.

In this case, after giving due consideration to Respondent's ability to pay and the complexity of the case, the actual costs will be reduced to \$1,260, and he will be allowed to make monthly payments of \$35 during the period of probation.

By reason of the foregoing, the reasonable costs of investigation are \$1,260.

4. All evidence submitted in mitigation or rehabilitation has been considered. The evidence presented did not establish that Respondent has a drug or alcohol addiction; rather he had a few transgressions that were due in part to youth and difficult circumstances. Respondent has learned valuable life lessons and assured the Board that his conduct will not recur. The order that follows is adequate and necessary for the protection of the public.

ORDER

Pharmacy technician registration number TCH 88006, issued to Respondent Ravi V. Dhruv is revoked; however, the revocation is stayed and Respondent is placed on probation for three years upon the following terms and conditions:

1. Certification Prior to Resuming Work

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

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 seventy-two (72) hours of such occurrence:

- 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
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's pharmacy technician registration 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 (2) 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 or her 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 4401 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause his or her 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 4401 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his or her 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 or her direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in case number 4401 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 thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment by or through a pharmacy employment service, Respondent shall cause his or her 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 4401 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his or her 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 the 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 \$1,260. Respondent shall make said payments as follows: \$35 per month. 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.

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 or her 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 the Respondent's license history with the board.

Upon acceptance of the surrender, Respondent shall relinquish his or her pharmacy technician license to the board within ten (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 (3) 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 ten (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 ten (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 40 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 40 hours per calendar month in California, Respondent must notify the board in writing within ten (10) days of cessation of work and must further notify the board in writing within ten (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 thirty-six (36) months.

"Cessation of work" means calendar month during which Respondent is not working for at least 40 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 40 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. Random Drug Screening

Respondent at his or her 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 the 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 designated representative until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other

distributor of drugs licensed by the board, or any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not perform any of the duties of a designated representative, nor do any act involving drug selection, selection of stock, manufacturing, dispensing; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices and controlled substances. Respondent shall not resume work until notified by the board.

Respondent shall not direct, control or perform any aspect involving the distribution of dangerous drugs and devices and controlled substances. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed entity 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.

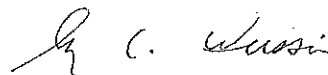
16. Abstain from Drugs and Alcohol Use

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 the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he or she 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.

This decision shall become effective on January 30, 2015.

It is so ORDERED on December 31, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER, Board President