

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

In the Matter of the Accusation Against:

DANNY HORACIO RAMOS,

Pharmacy Technician Registration No. TCH  
45834

Respondent.

Case No. 4923

OAH No. 2014120752

**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 6, 2015.

It is so ORDERED on June 4, 2015.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
AMARYLIS GUTIERREZ  
Board President

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**PROPOSED DECISION**

This matter was heard by Humberto Flores, Administrative Law Judge, Office of Administrative Hearings, on April 20, 2015, in Los Angeles, California.

Deputy Attorney General Terrence M. Mason represented complainant. Danny Horacio Ramos (respondent) appeared at the hearing and represented himself. Evidence was received and the matter was submitted for decision on April 20, 2015.

**FACTUAL FINDINGS**

1. Virginia Herold made and filed the Accusation in her official capacity as Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, State of California.
2. On January 17, 2003, the Board issued Pharmacy Technician Registration No. TCH 45834 to respondent. Said license is in full force and effect with an expiration date of November 30, 2016.
3. On June 10, 2013, in the Superior Court of California, County of Los Angeles (Case No. 3IG01811), respondent entered a plea of nolo contendere and was convicted of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol content of .08 percent or greater, a misdemeanor. Imposition of sentence was suspended and respondent was placed on summary probation for a period of five years on certain terms and conditions, including, that he serve 96 hours in the county jail, pay fines and fees totaling \$2,520, and complete an 18-month SB 38 Alcohol Treatment Program.

4. The facts and circumstances underlying the conviction were that respondent drove a vehicle while under the influence of alcohol. While patrolling in the City of Hawthorne, CHP officers observed respondent's vehicle parked on the side of the road with a flat tire at 2:00 a.m. The CHP officers approached respondent who exhibited symptoms of inebriation. Respondent was arrested after failing a field sobriety test. Shortly after his arrest, respondent submitted to a blood test which indicated that respondent's blood alcohol level was .20 percent.

5. On August 15, 2012, in the Superior Court of California, County of Los Angeles (Case No. 2WA23320), respondent entered a plea of nolo contendere and was convicted of violating Penal Code section 647, subdivision (f), public intoxication, a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for 12 months on certain terms and conditions, including conditions ordering respondent to serve four days in the county jail, attend 60 Alcoholics Anonymous meetings, and pay fines and fees totaling \$285.

6. The facts and circumstances underlying the conviction were that on April 30, 2012, a Santa Monica Police officer observed a vehicle parked in the middle of the street. The police officer approached the vehicle and found respondent asleep on the driver's seat. The officer also observed a number of beer cans on the floorboard of the vehicle. Respondent exhibited numerous signs of inebriation and admitted that he had been drinking alcoholic beverages. The police officer arrested respondent for driving under the influence (DUI) after he determined that respondent was under the influence of alcohol and unable to care for himself.

#### *Prior DUI Convictions*

7. On January 22, 2007, in the Superior Court of California, County of Los Angeles (Case No. 6WA04018), respondent was convicted of violating Vehicle Code sections 23152, subdivision (b), driving with a blood alcohol content of .08 percent or greater, and 14601.1, driving with a suspended driver's license. Both offenses are misdemeanors. Respondent was placed on probation for a period of 36 months on certain terms and conditions, including serving 15 days in the county jail and completing a first offender alcohol treatment program.

8. On November 16, 2007, in the Superior Court of California, County of Los Angeles (Case No. 7WA01595), respondent was convicted of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol content of .08 percent or greater, a misdemeanor. Respondent was placed on probation for a period of five years on certain terms and conditions, including that he serve 60 days in the county jail, pay fines and fees, and complete an 18-month alcohol program.

### *Prior Vehicle Code Violations*

9. On April 25, 2008, in the Superior Court of California, County of Ventura (Case No. 2007046624), respondent was convicted of violating Vehicle Code section 12500, subdivision (b), driving without a driver's license, a misdemeanor. Respondent was placed on probation for a period of 36 months on certain terms and conditions.

10. On June 20, 2007, in the Superior Court of California, County of Ventura (Case No. 200702061), respondent was convicted of violating Vehicle Code section 14601.1, driving with a suspended or revoked driver's license, a misdemeanor. Respondent was placed on probation for a period of 36 months on certain terms and conditions, including serving 45 days in the county jail.

11. On December 4, 2006, in the Superior Court of California, County of Los Angeles (Case No. 6WA03073), respondent was convicted of violating Vehicle Code section 14601.1, driving with a suspended or revoked driver's license, a misdemeanor. Respondent was placed on probation for a period of 36 months on certain terms and conditions, including serving 60 days in the county jail.

12. On August 30, 2006, in the Superior Court of California, County of Los Angeles (Case No. 6SY06338), respondent was convicted of violating Vehicle Code section 14601.1, driving with a suspended or revoked driver's license, a misdemeanor. Respondent was placed on probation for a period of three years on certain terms and conditions.

13. On October 17, 2006, in the Superior Court of California, County of Los Angeles (Case No. 6IG02881), respondent was convicted of violating Vehicle Code section 14601.1, driving with a suspended or revoked driver's license, a misdemeanor. Respondent was placed on probation for a period of three years on certain terms and conditions, including serving 10 days in the county jail.

14. On January 8, 2004, in the Superior Court of California, County of Los Angeles (Case No. BA258181), respondent was convicted of violating Penal Code section 273.5, subdivision (a), infliction of corporal injury on a spouse, a misdemeanor. Respondent was placed on probation for a period of 24 months on certain terms and conditions, including serving 90 days in the county jail. Respondent completed all terms and conditions of probation and the case was dismissed on October 25, 2006.

### *Prior Board Action*

15. On April 13, 2010, the Board issued Citation No. CI 2008 37343 against respondent for conduct which resulted in the convictions set forth in Factual Findings 7 through 14. The Board imposed a fine of \$500, which respondent paid.

## *Rehabilitation*

16. Respondent testified that he has finally learned his lesson. He stopped drinking alcoholic beverages the day following his January 28, 2013 arrest for DUI. Further, respondent stated that he took the 18-month alcohol treatment program seriously. Respondent introduced documentary evidence that he completed the program on March 16, 2015 (Exhibit B).

17. Respondent has been a pharmacy technician for 12 years. Respondent works at AltaMed Pharmacy in Los Angeles. He has worked there for the past two years. Respondent's testimony that he performs his duties in a competent manner is supported by the letter from his supervisor at AltaMed, staff pharmacist Benjamin Ochoa. Mr. Ochoa attested to respondent's diligence and exemplary quality of work. Respondent is the lead technician at AltaMed and part of his duties is to mentor less experienced technicians. Respondent previously worked at Olympic Plaza Pharmacy from 2008 to 2013. He has been gainfully employed as a pharmacy technician since being licensed. Respondent has a 15-year-old daughter for whom he provides support

## *Costs of Investigation and Enforcement*

18. Complainant submitted certification of costs of enforcement totaling \$4,542.50. The requested costs are reasonable under Business and Professions Code section 125.3.

## LEGAL CONCLUSIONS

1. Grounds exist to suspend or revoke respondent's pharmacy technician registration pursuant to Business and Professions Code sections 490, 4300 and 4301, subdivision (l), and California Code of Regulations, title 16, section 1770, based on respondent's convictions that are substantially related to the duties, functions and qualifications, as set forth in Factual Findings 3 through 6.

2. Grounds exist to suspend or revoke respondent's pharmacy technician's license for unprofessional conduct pursuant to Business and Professions Code sections 4301, subdivision (k), based on respondent's convictions involving the drinking of alcoholic beverages, as set forth in Factual Findings 3 through 6.

3. Grounds exist to suspend or revoke respondent's pharmacy technician's license for unprofessional conduct pursuant to Business and Professions Code sections 4301, subdivision (h), because respondent used alcoholic beverages in a manner injurious to himself or others, as set forth in Factual Finding 3 through 6.

4. Grounds exist to suspend or revoke respondent's pharmacy technician's license pursuant to Business and Professions Code sections 4301, subdivision (o), for engaging in acts of unprofessional conduct, as set forth in Factual Finding 3 through 6.

5. Grounds exist to order respondent to pay the Board \$4,542.50 under Business and Professions Code section 125.3, for reasonable costs of investigation and prosecution of this matter, based on Factual Finding 18.

6. The Board has the responsibility to protect the public. In discharging this responsibility, the Board has promulgated guidelines which set forth factors to be considered in determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case as follows:

1. *Actual or potential harm to the public* – Here, respondent's actions of driving under the influence created potential harm to the public.
2. *Actual or potential harm to any consumer* – Respondent's use of drugs created a potential harm to consumers because he clearly has a drinking problem which has the potential to affect his work as a pharmacy technician.
3. *Prior disciplinary record, including level of compliance with disciplinary order(s)* – Respondent has no prior disciplinary record.
4. *Prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s)* – Respondent was the subject of a citation issued by the Board in April 2010 for unprofessional conduct, which included prior DUIs.
5. *Number and/or variety of current violations* – Respondent suffered two convictions which are the bases of the Accusation.
6. *Nature and severity of the act(s), offense(s) or crime(s) under consideration* – Respondent's has a history of alcohol abuse and has suffered three DUIs.
7. *Aggravating evidence* – The aggravating evidence in this case was that respondent was the subject of a citation issued by the Board for similar conduct involving the use of alcohol.
8. *Mitigating evidence* – There was no mitigating evidence in this case.

9. *Rehabilitation evidence* – Respondent presented evidence of rehabilitation in that he no longer drinks alcohol and completed the 18-month alcohol counseling program.
10. *Compliance with terms of any criminal sentence, parole, or probation* – Respondent remains on probation for his last offense.
11. *Overall criminal record* – Respondent has suffered numerous convictions involving the use of alcohol. His convictions for driving with a suspended driver's license were all related to his use of alcohol.
12. *If applicable, evidence of proceedings for case being set aside and dismissed pursuant to Section 1203.4 of the Penal Code* – Respondent's conviction for causing corporal injury to a spouse was dismissed in 2006.
13. *Time passed since the act(s) or offense(s)* – Respondent's last DUI conviction is two years old.
14. *Whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct* – Respondent's conduct of drinking alcohol and driving is an intentional act.
15. *Financial benefit to the respondent from the misconduct* – Respondent received no financial benefit from his misconduct.

8. In its guidelines, the Board has established four categories of misconduct. Each category has a range of recommended discipline. A category I violation is a relatively minor offense with a minimum penalty of one year probation. A category IV violation is considered the most serious offense, which should result in revocation of a license. Respondent's misconduct is considered a category II offense because it involved the use of alcohol and presented a potential for harm to the public at large.

9. In consideration of all of the facts and circumstances of this case, the public would be adequately protected by placing respondent's license on probation with appropriate conditions, including a period of suspension. Because respondent has a history of alcohol abuse, the probationary order should also include conditions ordering respondent to abstain from alcohol and to participate in a treatment program. However, the evidence did not establish that respondent has allowed his drinking problem to interfere with his work. For example, there was no evidence that respondent has been consistently tardy for work or lethargic while at work; nor has he been accused of any wrongdoing while performing his duties as a pharmacy technician. In fact, respondent has performed his duties in a competent manner, which is evidenced by the fact that respondent acts as the lead pharmacy technician.

During respondent's testimony, the undersigned did not observe any outward signs current alcohol abuse. Respondent is separated from his wife but provides financial support for his daughter.

## ORDER

Pharmacy Technician Registration No. 45834 issued to respondent Danny Horacio Ramos is revoked; however, the revocation is stayed and respondent is placed on probation for five years upon the following terms and conditions:

### **1. Suspension**

As part of probation, respondent is suspended from working as a pharmacy technician for 30 days beginning on the effective date of this decision.

### **2. 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, subdivision (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.

### **3. 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's 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.

#### **4. 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.

#### **5. 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.

#### **6. 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.

## **7. Notice to Employers**

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 4923 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 3246 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 4923 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 4923 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.

## **8. 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 \$4,542.50. Respondent

shall make payments as directed by the Board. 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 or her responsibility to reimburse the Board its costs of investigation and prosecution.

#### **9. 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.

#### **10. 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.

#### **11. 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.

## **12. 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.

## **13. 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 80 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 80 hours per calendar month in California, he 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 80 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 80 hours as a pharmacy technician as defined by Business and Professions Code section 4115.

## **14. No Ownership of Licensed Premises**

Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent currently owns or has any legal or beneficial interest in, or serve as a manager, administrator,

member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective of this decision. Violation of this restriction shall be considered a violation of probation.

#### **15. No Ownership of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

#### **16. Abstain from Drug 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.

#### **17. Random Alcohol and/or 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 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 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.

#### **18. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

Within thirty (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., Alcoholics Anonymous, 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.

#### **19. Violation of Probation**

If a 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.

**20. Completion of Probation**

Upon written notice by the Board indicating successful completion of probation, respondent's pharmacy technician license will be fully restored.

DATED: May 7, 2015

  
HUMBERTO FLORES  
Administrative Law Judge  
Office of Administrative Hearings

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 TERRENCE M. MASON  
Deputy Attorney General  
4 State Bar No. 158935  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-6294  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10  
11 In the Matter of the Accusation Against:

Case No. 4923

12 **DANNY HORACIO RAMOS**  
5976 Guthrie Ave.  
13 Los Angeles, CA 90034

**ACCUSATION**

14 Pharmacy Technician Registration  
No. TCH 45834

15  
16 Respondent.

17  
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 January 17, 2003, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician Registration No. TCH 45834 to Danny Horacio Ramos (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on November 30, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.



1 **STATUTORY PROVISIONS**

2 4. Section 490 states, in pertinent part:

3 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
4 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
5 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
6 or profession for which the license was issued.

7 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
8 discipline a licensee for conviction of a crime that is independent of the authority granted under  
9 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
10 of the business or profession for which the licensee's license was issued.

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

17 5. Section 4300 provides in pertinent part, that every license issued by the Board is  
18 subject to discipline, including suspension or revocation.

19 6. Section 4300.1 states:

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

25 7. Section 4301 states, in pertinent part:

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

1  
2       "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
3 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
4 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
5 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
6 practice authorized by the license.

7  
8       "(k) The conviction of more than one misdemeanor or any felony involving the use,  
9 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
10 combination of those substances.

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

1  
2 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
3 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
4 federal and state laws and regulations governing pharmacy, including regulations established by  
5 the board or by any other state or federal regulatory agency."

6 **REGULATORY PROVISIONS**

7 8. California Code of Regulations, title 16, section 1770, states:

8 "For the purpose of denial, suspension, or revocation of a personal or facility license  
9 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
10 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
11 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
12 licensee or registrant to perform the functions authorized by his license or registration in a manner  
13 consistent with the public health, safety, or welfare."

14 **COST RECOVERY**

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

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Convictions of Substantially Related Crimes)**

21 10. Respondent is subject to disciplinary action under sections 4300, 4301, subdivision (l)  
22 and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,  
23 Respondent was convicted of crimes substantially related to the qualifications, functions or duties  
24 of a pharmacy technician as follows:

25 a. On or about June 10, 2013, Respondent was convicted of one misdemeanor count of  
26 violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by  
27 weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the State of*  
28 *California v. Danny Horacio Ramos* (Los Angeles County Superior Court Case No. 31G01811.)

1 The Court sentenced Respondent to serve 96 hours in Los Angeles County Jail and placed him on  
2 5 years probation, with terms and conditions.

3 b. The circumstances surrounding the conviction are that on or about January 28, 2013,  
4 during an investigation by the California Highway Patrol, Respondent was contacted. His vehicle  
5 was stopped on the right shoulder of the freeway. Respondent told the officer he had gotten a flat  
6 tire on his way home and had been stopped on the side of the road for two hours. While speaking  
7 to Respondent, the officer could observe objective signs and symptoms of alcohol intoxication.  
8 He had slurred speech, bloodshot, red watery eyes, and an odor of an alcoholic beverage  
9 emanating from his breath and within the vehicle. Respondent was asked to exit the vehicle and  
10 do a series of field sobriety tests, which he was unable to perform. During the booking  
11 procedure, Respondent submitted to blood test that resulted in a blood alcohol content level of  
12 0.20%.

13 c. On or about August 15, 2012, after pleading nolo contendere, Respondent was  
14 convicted of one misdemeanor count of violating Penal Code section 647, subdivision (f)  
15 [disorderly conduct/public intoxication] in the criminal proceeding entitled *The People of the*  
16 *State of California v. Danny Horacio Ramos* (Los Angeles County Superior Court Case No.  
17 2WA23320.) The Court sentenced Respondent to serve four days in Los Angeles County Jail and  
18 placed him on 12 months probation, with terms and conditions.

19 d. The circumstances surrounding the conviction are that on or about April 30, 2012,  
20 during an investigation of a parked car in the middle of the street by Santa Monica Police,  
21 Respondent was contacted. Respondent was asleep in the vehicle and the officer had to knock on  
22 the driver's door window a number of times to obtain a response. When asked why he was  
23 stopped in the middle of the street, Respondent stated, "I am here with friends." When  
24 Respondent spoke the officer detected a strong odor of an alcoholic beverage emanating from his  
25 breath and body. He had slurred speech, was slow to respond to direct questions, and was very  
26 disoriented. The officer could see several beer cans on the floor board of the front passenger seat.  
27 When asked if he had been drinking any alcoholic beverages, Respondent stated, "Come on

28 ///

1 officer, Yes." Respondent was subsequently arrested for violating Penal Code section 647,  
2 subdivision (f) [disorderly conduct/public intoxication].

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Conviction Involving Alcohol)**

5 11. Respondent is subject to disciplinary action under sections 4300 and 4301,  
6 subdivision (k), on the grounds of unprofessional conduct, in that Respondent sustained another  
7 criminal conviction involving alcoholic beverages. Complainant refers to and by this reference  
8 incorporates the allegations set forth above in paragraph 10, subparagraphs (a) and (c), inclusive,  
9 as though set forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol)**

12 12. Respondent is subject to disciplinary action under sections 4300 and 4301,  
13 subdivision (h), on the grounds of unprofessional conduct, in that Respondent used alcoholic  
14 beverages to an extent or in a manner dangerous or injurious to himself, any person, or the public.  
15 Complainant refers to and by this reference incorporates the allegations set forth above in  
16 paragraphs 10, subparagraphs (b) and (d), inclusive, as though set forth fully.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

19 13. Respondent is subject to disciplinary action under section 4301, (o), in that  
20 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing  
21 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above  
22 in paragraphs 10-12, inclusive, as though set forth fully.

23 **DISCIPLINE CONSIDERATIONS**

24 14. In order to determine the degree of discipline, if any to be imposed on Respondent,  
25 Complainant alleges, as follows:

26 a. On or about April 13, 2010, the Board issued Citation and Fine No. CI 2008 37343 to  
27 Respondent for violating section 4301, subdivisions (f), (h), and (i), resulting in the issuance of a  
28 \$500.00 fine. Respondent paid the Citation fine, which was based upon the following convictions:

1           b. On or about April 25, 2008, after pleading nolo contendere, Respondent was  
2 convicted of one misdemeanor count of violating Vehicle Code section 12500, subdivision (a)  
3 [driving without a license] in the criminal proceeding entitled *The People of the State of*  
4 *California v. Danny Horacio Ramos* (Ventura County Superior Court Case No. 2007046624.)  
5 The Court sentenced Respondent to serve two days in Ventura county Jail and placed him on 36  
6 months probation, with terms and conditions. The circumstances surrounding the conviction are  
7 that on or about May 29, 2007, Respondent was arrested.

8           c. On or about June 20, 2007, after pleading nolo contendere, Respondent was convicted  
9 of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving  
10 while driver's license is suspended or revoked] in the criminal proceeding entitled *The People of*  
11 *the State of California v. Danny Horacio Ramos* (Ventura County Superior Court Case No.  
12 200702061.) The Court sentenced Respondent to serve 45 days in Ventura County Jail and  
13 placed him on 36 months probation, with terms and conditions. The circumstances surrounding  
14 the conviction are that on or about May 28, 2007, Respondent was arrested.

15           d. On or about November 16, 2007, Respondent was convicted of violating Vehicle  
16 Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol  
17 in his blood] in the criminal proceeding entitled *The People of the State of California v. Danny*  
18 *Horacio Ramos* (Los Angeles County Superior Court Case No. 7WA01595) The Court sentenced  
19 Respondent to serve 60 days in Los Angeles County Jail and place on 5 years probation, with  
20 terms and conditions. The circumstances surrounding the conviction are that on or about March  
21 11, 2007, Respondent was arrested.

22           e. On or about January 22, 2007, Respondent was convicted of one misdemeanor count  
23 of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more,  
24 by weight, of alcohol in his blood] and one misdemeanor count of Vehicle Code section 14601.1,  
25 subdivision (a) [driving while driver's license is suspended or revoked] in the criminal proceeding  
26 entitled *The People of the State of California v. Danny Horacio Ramos* (Los Angeles County  
27 Superior Court Case No. 6WA04018.) The Court sentenced Respondent to serve 15 days in Los  
28 Angeles County Jail and placed him on 36 months probation, with terms and conditions. The

1 circumstances surrounding the conviction are that on or about December 25, 2006, Respondent  
2 was arrested.

3 f. On or about December 4, 2006, Respondent was convicted of one misdemeanor count  
4 of violating Vehicle Code section 14601.1, subdivision (a) [driving while driver's license is  
5 suspended or revoked] in the criminal proceeding entitled *The People of the State of California v.*  
6 *Danny Horacio Ramos* (Los Angeles County Superior Court Case No. 6WA03073.) The Court  
7 sentenced Respondent to serve five days in Los Angeles County Jail and placed her on 36 months  
8 probation, with terms and conditions. The circumstances surrounding the conviction are that on  
9 or about August 28, 2006.

10 g. On or about August 30, 2006, Respondent was convicted of one misdemeanor count  
11 of violating Vehicle Code section 14601.1, subdivision (a) [driving while driver's license is  
12 suspended or revoked] in the criminal proceeding entitled *The People of the State of California v.*  
13 *Danny Horacio Ramos* (Los Angeles County Superior Court Case No. 6SY06338.) The Court  
14 placed Respondent on 3 years probation, with terms and conditions. The circumstances  
15 surrounding the conviction are that on or about June 25, 2006, Respondent was arrested.

16 h. On or about October 17, 2006, Respondent was convicted of one misdemeanor count  
17 of violating Vehicle Code section 14601.1, subdivision (a) [driving while driver's license is  
18 suspended or revoked] in the criminal proceeding entitled *The People of the State of California v.*  
19 *Danny Horacio Ramos* (Los Angeles County Superior Court Case No. 6IG02881.) The Court  
20 sentenced Respondent to serve 10 days in Los Angeles County Jail and placed him on 3 years  
21 probation, with terms and conditions. The circumstances surrounding the conviction are that on  
22 or about June 21, 2006, Respondent was arrested

23 i. On or about January 8, 2004, Respondent was convicted of one misdemeanor count  
24 of violating Penal Code section 273.5, subdivision (a) [infliction of corporal injury on spouse or  
25 cohabitant] in the criminal proceeding entitled *The People of the State of California v. Danny*  
26 *Horacio Ramos* (Los Angeles County Superior Court Case No. BA258181.) The Court sentenced  
27 Respondent to serve 90 days in Los Angeles County Jail and placed him on 24 months probation,

28 *///*

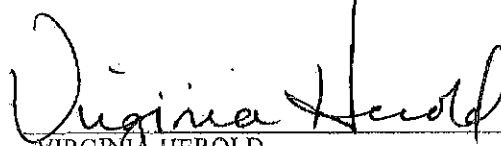
1 with terms and conditions. The circumstances surrounding the conviction are that on or about  
2 December 23, 2003, Respondent was arrested.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board issue a decision:

- 6 1. Revoking or suspending Pharmacy Technician Registration No. TCH 45834, issued  
7 to Respondent;
- 8 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
9 enforcement of this case, pursuant to section 125.3; and
- 10 3. Taking such other and further action as deemed necessary and proper.

11  
12 Dated: 2/4/14



13 VIRGINIA HEROLD  
14 Executive Officer  
15 Board of Pharmacy  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

19  
20  
21  
22 (rev. 12/17/13)