

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

In the Matter of the Statement of Issues Against:

PATRICK PATOU TCHOUMI, Respondent

Pharmacist Examination and Licensure Application

Agency Case No. 6696

OAH No. 2019090231

and

In the Matter of the Accusation Against:

PATRICK PATOU TCHOUMI, Respondent

Original Intern Pharmacist Registration No. INT 42431

Agency Case No. 6653

OAH No. 2019090654

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 at 5:00 p.m. on March 26, 2020.

It is so ORDERED on February 25, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
Board President

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

In the Matter of the Statement of Issues Against:

PATRICK PATOU TCHOUMI

Pharmacist Examination and Licensure Application

Respondent,

Case No. 6696

OAH Case No. 2019090231

and

In the Matter of the Accusation Against:

PATRICK PATOU TCHOUMI

Original Intern Pharmacist Registration No. INT 42431

Respondent.

Case No. 6653

OAH Case No. 2019090654

PROPOSED DECISION

Administrative Law Judge Regina Brown, State of California, Office of Administrative Hearings, heard this matter on December 9, 2019, in Oakland.

Sheila J. Vasantharam, Deputy Attorney General, represented complainant Anne Sodergren, Interim Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Respondent Patrick Patou Tchoumi appeared telephonically and represented himself at the hearing.

The record closed and the matter was submitted on December 9, 2019.

FACTUAL FINDINGS

1. Complainant Anne Sodergren made the Statement of Issues and Accusation in her official capacity as the Interim Executive Officer of the Board.
2. On June 25, 2018, the Board received a Pharmacist Examination for Licensure Application (application) from respondent Patrick Patou Tchoumi. On February 8, 2019, the Board denied the application. Respondent filed a timely appeal.
3. On June 29, 2018, the Board issued Original Intern Pharmacist Registration Number INT 42431 (registration) to respondent. The registration will expire on June 30, 2020, unless renewed.

Criminal Conduct

4. On March 20, 2019, respondent was convicted in the Superior Court of the State of California, County of Mendocino, upon a plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b) (driving under the influence (DUI) of alcohol with a blood alcohol content of .08 percent or higher), and Penal Code section 148, subdivision (a)(1) (resisting arrest), both misdemeanors. Respondent was placed on probation for a period of five years. All of the terms and conditions of probation were not established at hearing. However, from January to May 2019, respondent attended Alcoholics Anonymous (AA) and he completed 100 hours of community service. On May 30, 2019, the court granted respondent's request to suspend the remaining requirements of his probation and ordered that he only had to attend a first offender DUI program as long as he resided in California. Also, the payments of fines and fees were suspended due to respondent's financial hardship. Thereafter, respondent moved to Maryland.

The underlying offenses occurred on December 24, 2018, when an officer responded to a complaint of loud music playing from a suspicious vehicle. The officer approached a parked vehicle with its motor running and observed a partially consumed bottle of beer and an empty beer bottle on the floorboard of the vehicle. When the officer asked respondent to exit the vehicle, respondent refused. Respondent was arrested. His blood alcohol level was tested at 0.143 percent.

5. Also, on March 20, 2019, respondent was convicted in the Superior Court of the State of California, County of Mendocino, upon a plea of nolo contendere, of violating Penal Code section 21310 (carrying a concealed dirk/dagger), a misdemeanor. Probation was denied, and the terms of sentencing were not established at hearing.

The underlying offense occurred on November 4, 2018, when an officer observed respondent fall to the ground in the parking lot of a drinking establishment. Respondent exhibited objective signs of intoxication and the officer was unable to understand respondent's responses to his questions. Respondent was arrested for public intoxication. During the search of respondent, the officer found a knife of approximately 10 inches in length with a fixed blade of approximately five inches.

6. On September 27, 2018, respondent entered a bar, where he had been previously banned, and engaged in a verbal altercation with an employee. The officer who responded to the scene asked respondent to leave the premises. Respondent refused to leave. As the officer was attempting to place respondent under arrest for public intoxication, respondent pushed the officer and attempted to flee. Respondent was arrested, but he was not convicted of any criminal offense.

Respondent's Evidence

7. Respondent immigrated to the United States in 2003 from Cameroon, Africa. In 2014, he obtained a bachelor's degree in biology, graduating magna cum laude from the University of Massachusetts in Boston. In May 2018, respondent graduated from the Massachusetts College of Pharmacy with a degree in pharmacy. He is also licensed as a pharmacist in Massachusetts and Colorado.

8. At the hearing, respondent explained that in June 2018, he moved from Massachusetts to California to work as a pharmacist with Rite Aid in Ukiah and Fort Bragg. Respondent described Ukiah as a conservative community. According to respondent, on the evening of September 27, 2018, he was the only person of color in the bar when he argued with an employee and was arrested. He stated that this was the impetus for his recurring negative interactions with the police.

9. Regarding his conviction for carrying a concealed dagger, respondent testified that he was merely walking to his house when the police stopped him and arrested him. Respondent also testified that he was wearing his friend's jacket and he was unaware of the dagger in the pocket.

10. Regarding his DUI conviction, respondent testified that he entered his vehicle that was parked outside of his house, he "turned on the engine," and he was playing music. Respondent disputed the accuracy of the police report and testified that he did not tell the police that he had been drinking and that there were no beer bottles in the vehicle. Respondent stated that he had not done anything wrong, and he pled no contest because he had "a public defender and he was unfamiliar with the criminal justice system." However, respondent is found not to be credible as he contradicted his own testimony at hearing. Initially, he testified that he "turned on the engine," but he later testified that the engine was not running when the police arrived. Additionally, respondent has failed to accept responsibility for his actions.

11. Respondent described himself as a social drinker who does not have a problem with alcohol abuse, and he only drinks with his friends approximately once a week. He is not currently attending AA.

12. At some point after May 2019, respondent moved to Maryland to live with his family. He works at a distribution center. He has not applied for a pharmacist license in Maryland. He intends to return to practice in California.

13. Respondent provided letters of support from the following:

a. Robert Larsen, Pharm. D., worked with respondent at Rite Aid in Fort Bragg from November 2018 to May 2019. Larson described respondent as a team player, honest, hardworking, prompt, professional, and a good example of a pharmacy

graduate intern. Larsen never observed respondent engage in inappropriate behavior at work.

b. Sherril Spires, pharmacy manager at Rite Aid in Fort Bragg, worked with respondent for six months until May 2019, and was happy to work with respondent and she trusted him with the care of patients. Spires described respondent as honest, and a "joy to work with." According to Spires, respondent was liked by the staff and patients, he was diligent in making sure that patients understood their medication therapy, and he followed the pharmacy laws.

Costs

14. Complainant certified enforcement costs in the amount of \$3,530, incurred in connection with the prosecution of the Accusation.

15. Complainant's claim for reimbursement of enforcement costs is supported by a declaration that complies with California Code of Regulations, title 1, section 1042, subdivisions (b)(2) and (b)(3). Complainant's costs are found to be reasonable.

LEGAL CONCLUSIONS

Applicable Law

1. Business and Professions Code¹ sections 475, subdivision (a)(2) and 480, subdivision (a)(1), provide for the denial of a license on the grounds of a conviction of a crime. Sections 475, subdivision (a)(4) and 480, subdivision (a)(3)(A), provide for the denial of a license on the grounds of the commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of a license.

2. Section 493 provides for the denial of a license or disciplinary action against a licensee on the grounds of conviction of a crime substantially related to the qualifications, functions, and duties of a licensee. A crime is considered to be substantially related to the qualifications, functions or duties of a pharmacist if to "a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by [the] license or registration in a manner consistent with the public health, safety, or welfare." (Cal. Code Regs., tit. 16, § 1770.)

3. Section 490 provides that the Board may discipline a licensee for conviction of a crime substantially related to the qualifications, functions and duties of a pharmacist.

¹All statutory references are to the Business and Professions Code, unless otherwise noted.

4. Pursuant to section 4301, the Board may take disciplinary action against a licensee for unprofessional conduct which includes: use of alcoholic beverage in a manner dangerous to oneself or any other person or to the public (subd. (h)); conviction of more than one misdemeanor involving the consumption of alcoholic beverage (subd. (k)); conviction of a crime substantially related to the qualifications, functions, and duties of a licensee (subd. (l)); and actions or conduct that would have warranted denial of a license (subd. (p)).

5. Respondent's convictions reflect a lack of sound professional and personal judgment relevant to a pharmacist's fitness and competence to practice. (*Sulla v. Bd. of Registered Nursing* (2012) 205 Cal.App.4th 1195.) Respondent's crimes evidence a potential unfitness to perform the functions of a pharmacist in a manner consistent with the public safety and, as such, are substantially related to the qualifications, functions, or duties of a licensed pharmacist.

STATEMENT OF ISSUES

FIRST CAUSE FOR DENIAL – CONVICTION OF SUBSTANTIALLY RELATED CRIME

6. Cause exists to deny respondent's application pursuant to sections 475, subdivision (a)(2); 480, subdivisions (a)(1); 493; and 4301, subdivision (l), individually and collectively, by reason of the matters set forth in Findings 4 and 5 and Legal Conclusions 1, 2, and 4.

**SECOND CAUSE FOR DENIAL – ACT IF DONE BY A LICENSEE WOULD BE
GROUNDS FOR SUSPENSION/REVOCATION**

7. Cause exists to deny respondent's application pursuant to sections 475, subdivision (a)(4), and 480, subdivision (a)(3)(A), individually and collectively, by reason of the matters set forth in Findings 4 through 6 and Legal Conclusion 1.

Accusation

FIRST CAUSE FOR DISCIPLINARY ACTION

8. Cause exists to take disciplinary action against respondent's original intern pharmacist registration pursuant to sections 490, 493, and 4301, subdivisions (l) and (p), individually and collectively, by reason of his criminal convictions set forth in Findings 4 and 5 and Legal Conclusions 2, 3, and 4.

SECOND CAUSE FOR DISCIPLINARY ACTION

9. Cause exists to take disciplinary action against respondent's original intern pharmacist registration pursuant to section 4301, subdivision (h), for his use of alcoholic beverages in a dangerous manner to himself and the public, as set forth in Findings 4 through 6 and Legal Conclusion 4.

THIRD CAUSE FOR DISCIPLINARY ACTION

10. Cause exists to take disciplinary action against respondent's original intern pharmacist registration pursuant to section 4301, subdivision (k), for his convictions of offenses involving the use of alcoholic beverages, as set forth in Findings 4 and 5 and Legal Conclusion 4.

Disciplinary Considerations

11. The primary purpose of the Board is to protect the public. (Bus. & Prof. Code, § 4001.1.) The Board has established disciplinary guidelines for evaluating the appropriate disciplinary action to impose on a licensee who is subject to discipline and for applicants. The factors include actual or potential harm to pharmacy consumers or the public; prior disciplinary record; number of current violations; nature and severity of the acts under consideration; time that has passed since the acts; compliance with terms of any criminal sentence, parole, or probation; overall criminal record; expungement; whether the conduct was intentional or negligent or demonstrated incompetence; any financial benefit to the respondent from the misconduct; mitigating and aggravating evidence; and evidence of rehabilitation. (Cal. Code Regs., tit. 16, § 1769.) All factors have been considered.

Also, respondent's convictions and unprofessional conduct fall within Category II of the guidelines. The maximum discipline for a Category II violation is outright revocation. The minimum discipline is a stayed revocation with conditions of probation.

12. Respondent's convictions and unprofessional conduct are serious and raise concerns about his professional fitness for continued licensure as an original intern pharmacist. His dishonesty is also of concern. "Honesty and integrity are deeply and daily involved in various aspects of the practice [of a pharmacist]." (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 772.) Also, fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.)

Given respondent's serious convictions, his dishonesty and his failure to accept responsibility for his actions, it is determined that respondent has presented insufficient evidence of rehabilitation. All things considered, it is concluded that protection of the public compels revocation of respondent's original intern pharmacist registration and denial of his pharmacist examination and licensure application.

Costs

13. Section 125.3 provides that respondent may be ordered to pay the Board "a sum not to exceed the reasonable costs of the investigation and enforcement of the case." *Zuckerman v. State Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32 sets forth the factors to be considered in determining the reasonableness of costs.

14. The *Zuckerman* factors have been considered. Given that respondent has a financial hardship, as noted by the superior court, no costs are warranted.

ORDER

1. The Pharmacist Examination and Licensure Application of respondent Patrick Patou Tchoumi is denied.
2. The Original Intern Pharmacist Registration Number INT 42431 issued to respondent Patrick Patou Tchoumi is revoked.

DATE: January 7, 2020

DocuSigned by:
Regina Brown
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REGINA BROWN

Administrative Law Judge
Office of Administrative Hearings

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

12
13 In the Matter of the Statement of Issues
Against:

14 **PATRICK PATOU TCHOUMI**

15 **Pharmacist Examination and Licensure**
16 **Application**

17 Respondent.

Case No. 6696

STATEMENT OF ISSUES

18
19 Complainant alleges:

20 **PARTIES**

21 1. Anne Sodergren (Complainant) brings this Statement of Issues solely in her official
22 capacity as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer
23 Affairs.

24 2. On or about June 25, 2018, the Board of Pharmacy, Department of Consumer Affairs
25 received an application for a Pharmacist Examination and Licensure Application from Patrick
26 Patou Tchoumi (Respondent). On or about June 18, 2018, Patrick Patou Tchoumi certified under
27 penalty of perjury to the truthfulness of all statements, answers, and representations in the
28 application. The Board denied the application on February 8, 2019. On or about March 26, 2019,

1 Respondent requested a formal hearing.

2 **JURISDICTION**

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

6 4. Section 4300, subdivision (c) of the Code states:

7 “The board may refuse a license to any applicant guilty of unprofessional conduct.
8 The board may, in its sole discretion, issue a probationary license to any applicant for a
9 license who is guilty of unprofessional conduct and who has met all other requirements for
10 licensure . . . ”

11 **STATUTORY PROVISIONS**

12 5. Section 475 of the Code states:

13 “(a) Notwithstanding any other provisions of this code, the provisions of this division shall
14 govern the denial of licenses on the grounds of:

15 “(1) Knowingly making a false statement of material fact, or knowingly omitting to state a
16 material fact, in an application for a license.

17 “(2) Conviction of a crime.

18 “(3) Commission of any act involving dishonesty, fraud or deceit with the intent to
19 substantially benefit himself or another, or substantially injure another.

20 “(4) Commission of any act which, if done by a licentiate of the business or profession in
21 question, would be grounds for suspension or revocation of license.

22 “(b) Notwithstanding any other provisions of this code, the provisions of this division shall
23 govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2)
24 of subdivision (a).

25 “(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good
26 moral character or any similar ground relating to an applicant's character, reputation, personality,
27 or habits.”

28 ///

1 6. Section 477 of the Code states:

2 “As used in this division:

3 “(a) “Board” includes “bureau,” “commission,” “committee,” “department,” “division,”
4 “examining committee,” “program,” and “agency.”

5 “(b) “License” includes certificate, registration or other means to engage in a business or
6 profession regulated by this code.”

7 7. Section 480 of the Code states:

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

10 “(1) Been convicted of a crime. A conviction within the meaning of this section means a
11 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
12 board is permitted to take following the establishment of a conviction may be taken when the
13 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
14 an order granting probation is made suspending the imposition of sentence, irrespective of a
15 subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

16 “(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
17 benefit himself or herself or another, or substantially injure another.

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

20 “(B) The board may deny a license pursuant to this subdivision only if the crime or act is
21 substantially related to the qualifications, functions, or duties of the business or profession for
22 which application is made.

23 ...”

24 8. Section 482 of the Code states:

25 “Each board under the provisions of this code shall develop criteria to evaluate the
26 rehabilitation of a person when:

27 “(a) Considering the denial of a license by the board under Section 480; or

28 “(b) Considering suspension or revocation of a license under Section 490.

1 11. California Code of Regulations, title 16, section 1770, states:

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

8 **FIRST CAUSE FOR DENIAL**
9 **(Conviction of Substantially Related Crime)**
10 **(Bus. & Prof. Code §§ 475, subd. (a)(2), 480, subds. (a)(1), (a)(3)(B), 493)**

11 12. Respondent has subjected his Pharmacist Examination and Licensure Application to
12 denial under Code sections 475, subdivision (a)(2), 480, subdivisions (a)(1) and (a)(3)(B), 493,
13 and 4301, subdivision (I), in that he has the following convictions:

14 (a) On or about March 20, 2019, in a criminal matter entitled *The People of the State of*
15 *California v. Patrick Tchoumi*, in Mendocino County Superior Court Case No. 2019-30136-1,
16 Respondent pled nolo contendere to, and was convicted of, driving under the influence of alcohol
17 with a blood alcohol concentration (BAC) of 0.08% or higher (Veh. Code § 23152, subd. (b)) and
18 resisting arrest (Pen. Code, § 148, subd. (a)(1)), misdemeanors. Respondent was sentenced to 60
19 months of probation. The offense occurred on or about December 24, 2018, when law
20 enforcement officers responded to a complaint regarding Respondent sitting in his vehicle,
21 playing loud music with the engine running. The officer observed a partially consumed beer
22 bottle in the center console and an empty beer bottle on the floorboard of the vehicle. Respondent
23 admitted to consuming one beer. Respondent had a BAC of 0.143%.

24 (b) On or about March 20, 2019, in a criminal matter entitled *The People of the State of*
25 *California v. Patrick Tchoumi*, in Mendocino County Superior Court Case No. 2018-96401-1,
26 Respondent pled nolo contendere to, and was convicted of, carrying a concealed dirk or dagger, a
27 misdemeanor (Pen. Code, § 21310). The offense occurred on or about November 4, 2018, when a
28 law enforcement officer observed Respondent lean forward and fall to the ground. As the officer
attempted to speak with Respondent, the officer observed Respondent exhibiting objective signs

1 and symptoms of alcohol intoxication. The officer was unable to understand Respondent's
2 response to his question because of Respondent's level of intoxication. Officers searched
3 Respondent incident to an arrest, and located a concealed knife in his jacket. The knife was
4 approximately 10 inches in length with a fixed blade of approximately 5 inches.

5 **SECOND CAUSE FOR DENIAL**
6 **(Act That If Done by a Licensee, Would Be Grounds for Suspension or Revocation)**
7 **(Bus. & Prof. Code §§ 475, subd. (a)(4), 480, subd. (a)(3)(A))**

8 13. Respondent has subjected his Pharmacist Examination and Licensure Application to
9 denial under Code sections 475, subdivision (a)(4), and 480, subdivision (a)(3)(A), in that he
10 committed an act that if done by a licensee, would be grounds for suspension or revocation of
11 license. The circumstances are set forth in paragraph 12 and its subparts, above, and as follows:

12 14. On or about September 27, 2018, Respondent was arrested for being drunk in public
13 (Pen. Code, § 647(f)) and resisting arrest (Pen. Code, § 148(a)(1)), misdemeanors. A police
14 officer observed a verbal altercation between Respondent and an employee of a bar where
15 Respondent was banned from entering due to his behavior. After Respondent repeatedly failed to
16 leave the area, the officer arrested Respondent for being drunk in public. As the officer was
17 placing Respondent under arrest, Respondent pushed the officer in the chest and attempted to
18 flee.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
21 Statement of Issues and that, following the hearing, the Board of Pharmacy issue a decision:

22 1. Denying the application of Patrick Patou Tchoumi for a Pharmacist Examination and
23 Licensure Application;

24 2. Taking such other and further action as deemed necessary and proper.

25 DATED: August 12, 2019



26 ANNE SODERGREN
27 Interim Executive Officer
28 Board of Pharmacy
Department of Consumer Affairs
Complainant

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

13 In the Matter of the Accusation Against:

Case No. 6653

14 **PATRICK PATOU TCHOUMI**

A C C U S A T I O N

15 346 North Main St. #A
16 Ukiah, CA 95482

17 **Original Intern Pharmacist Registration No.**
INT 42431

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
23 as the Interim Executive Officer of the Board of Pharmacy (Board), Department of Consumer
24 Affairs.

25 2. On or about June 29, 2018, the Board of Pharmacy issued Original Intern Pharmacist
26 Registration Number INT 42431 to Patrick Patou Tchoumi (Respondent). The Original Intern
27 Pharmacist Registration was in full force and effect at all times relevant to the charges brought in
28 this Accusation and will expire on June 30, 2020, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 4011 of the Code provides that the Board shall administer and enforce both
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
7 Act [Health & Safety Code, § 11000 et seq.].

8 5. Section 4300 of the Code states, in relevant part:

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

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

13 "(1) Suspending judgment.

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

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

16 "(4) Revoking his or her license.

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

19 . . .

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

25 6. Section 4300.1 of the Code states:

26 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
27 operation of law or by order or decision of the board or a court of law, the placement of a license
28 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board

1 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
2 proceeding against, the licensee or to render a decision suspending or revoking the license."

3 **STATUTORY PROVISIONS**

4 7. Section 490 of the Code states:

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

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

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

19 ..."

20 8. Section 493 of the Code states:

21 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
22 the department pursuant to law to deny an application for a license or to suspend or revoke a
23 license or otherwise take disciplinary action against a person who holds a license, upon the
24 ground that the applicant or the licensee has been convicted of a crime substantially related to the
25 qualifications, functions, and duties of the licensee in question, the record of conviction of the
26 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
27 and the board may inquire into the circumstances surrounding the commission of the crime in
28

1 order to fix the degree of discipline or to determine if the conviction is substantially related to the
2 qualifications, functions, and duties of the licensee in question.”

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

4 “The board shall take action against any holder of a license who is guilty of unprofessional
5 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but
6 is not limited to, any of the following:

7 ...

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

13 ...

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

17 “(l) The conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
19 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
20 substances or of a violation of the statutes of this state regulating controlled substances or
21 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
22 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
23 The board may inquire into the circumstances surrounding the commission of the crime, in order
24 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
25 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
26 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
27 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
28 of this provision. The board may take action when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
5 indictment.

6 ...

7 “(p) Actions or conduct that would have warranted denial of a license.

8 ...”

9 **REGULATORY PROVISIONS**

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

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

17 **COST RECOVERY**

18 11. Section 125.3 of the Code provides, in relevant part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
22 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
23 included in a stipulated settlement.

24 **FIRST CAUSE FOR DISCIPLINARY ACTION** 25 **(Conviction of Substantially Related Crime)** 26 **(Bus. & Prof. Code §§ 490, 493, 4301, subd. (l), (p))**

27 12. Respondent has subjected his Original Intern Pharmacist Registration to discipline
28 under Code sections 490, 493, and 4301, subdivisions (l) and (p), in that he has the following
convictions:

1 (a) On or about March 20, 2019, in a criminal matter entitled *The People of the State of*
2 *California v. Patrick Tchoumi*, in Mendocino County Superior Court Case No. 2019-30136-1,
3 Respondent pled nolo contendere to, and was convicted of, driving under the influence of alcohol
4 with a blood alcohol concentration (BAC) of 0.08% or higher (Veh. Code § 23152, subd. (b)) and
5 resisting arrest (Pen. Code, § 148, subd. (a)(1)), misdemeanors. Respondent was sentenced to 60
6 months of probation. The offense occurred on or about December 24, 2018, when law
7 enforcement officers responded to a complaint regarding Respondent sitting in his vehicle,
8 playing loud music with the engine running. The officer observed a partially consumed beer
9 bottle in the center console and an empty beer bottle on the floorboard of the vehicle. Respondent
10 admitted to consuming one beer. Respondent had a BAC of 0.143%.

11 (b) On or about March 20, 2019, in a criminal matter entitled *The People of the State of*
12 *California v. Patrick Tchoumi*, in Mendocino County Superior Court Case No. 2018-96401-1,
13 Respondent pled nolo contendere to, and was convicted of, carrying a concealed dirk or dagger, a
14 misdemeanor (Pen. Code, § 21310). The offense occurred on or about November 4, 2018, when a
15 law enforcement officer observed Respondent lean forward and fall to the ground. As the officer
16 attempted to speak with Respondent, the officer observed Respondent exhibiting objective signs
17 and symptoms of alcohol intoxication. The officer was unable to understand Respondent's
18 response to his question because of Respondent's level of intoxication. Officers searched
19 Respondent incident to an arrest, and located a concealed knife in his jacket. The knife was
20 approximately 10 inches in length with a fixed blade of approximately 5 inches.

21 **SECOND CAUSE FOR DISCIPLINE**
22 **(Use of Alcoholic Beverages in a Dangerous Manner)**
23 **(Bus. & Prof Code, § 4301, subd. (h))**

24 13. Respondent has subjected his Original Intern Pharmacist Registration to discipline
25 under Code section 4301, subdivision (h), in that he used alcoholic beverages in a dangerous
26 manner to himself and the public. The circumstances are set forth in paragraph 12 and its
27 subparts, above, and as follows:

28 14. On or about September 27, 2018, Respondent was arrested for being drunk in public
(Pen. Code, § 647(f)) and resisting arrest (Pen. Code, § 148(a)(1)), misdemeanors. A police

1 officer observed a verbal altercation between Respondent and an employee of a bar where
2 Respondent was banned from entering due to his behavior. After Respondent repeatedly failed to
3 leave the area, the officer arrested Respondent for being drunk in public. As the officer was
4 placing Respondent under arrest, Respondent pushed the officer in the chest and attempted to
5 flee.

6 **THIRD CAUSE FOR DISCIPLINE**
7 **(Conviction Involving Alcoholic Beverages)**
8 **(Bus. & Prof. Code, § 4301, subd. (k))**

9 15. Respondent has subjected his Original Intern Pharmacist Registration to discipline
10 under Code section 4301, subdivision (k), in that he was convicted of offenses involving
11 alcoholic beverages. The circumstances are set forth in paragraph 12 and its subparts, above.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
14 Accusation and that, following the hearing, the Board of Pharmacy issue a decision:

- 15 1. Revoking or suspending Original Intern Pharmacist Registration Number INT 42431,
16 issued to Patrick Patou Tchoumi;
- 17 2. Ordering Patrick Patou Tchoumi to pay the Board of Pharmacy the reasonable costs
18 of the investigation and enforcement of this case, pursuant to Business and Professions Code
19 section 125.3; and,
- 20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: June 5, 2019



22 ANNE SODERGREN
23 Interim Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 *Complainant*

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