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

12 In the Matter of the Accusation Against:

13 **ANDRE SAMUEL CARAZOLEZ**
14 **874 Hollister Street, #18**
San Diego, CA 92154

15 **Pharmacy Technician Registration**
16 **No. TCH 92131**

17 Respondent.

Case No. 6812

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 **FINDINGS OF FACT**

19 1. On or about December 3, 2019, Complainant Anne Sodergren, in her official capacity
20 as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
21 filed Accusation No. 6812 against Andre Samuel Carazolez (Respondent) before the Board of
22 Pharmacy. (A copy of the Accusation is attached as Exhibit A.)

23 2. On or about June 10, 2010, the Board of Pharmacy (Board) issued Pharmacy
24 Technician Registration No. TCH 92131 to Respondent. The Pharmacy Technician Registration
25 was in full force and effect at all times relevant to the charges brought in Accusation No. 6812
26 and will expire on September 30, 2021, unless renewed

27 3. On or about December 12, 2019, Respondent was served by Certified and First Class
28 Mail copies of the Accusation No. 6812, Statement to Respondent, Notice of Defense, Request

Respondent's address of record which, pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is:

874 Hollister Street, #18
San Diego, CA 92154.

3. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505(c) and/or Business and Professions Code section 124.

4. Government Code section 11506(c) states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense . . . and the notice shall be deemed a specific denial of all parts of the accusation . . . not expressly admitted. Failure to file a notice of defense . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

5. The Board takes official notice of its records and the fact that Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 6812.

6. California Government Code section 11520(a) states, in pertinent part:

(a) If the respondent either fails to file a notice of defense . . . or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent

7. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 6812, finds that the charges and allegations in Accusation No. 6812, are separately and severally, found to be true and correct by clear and convincing evidence.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Andre Samuel Carazolez has subjected his Pharmacy Technician Registration No. TCH 92131 to discipline.

1 2. The agency has jurisdiction to adjudicate this case by default.

2 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
3 Registration based upon the following violations alleged in the Accusation which are supported
4 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

5 a. Respondent has subjected his registration to discipline under sections 490 and
6 4301(I) of the Code in that he was convicted of crimes that are substantially related to the
7 qualifications, duties, and functions of a pharmacy technician.

8 b. Respondent has subjected his registration to disciplinary action under section
9 4301(h) of the Code for unprofessional conduct in that on or about September 23, 2018,
10 Respondent operated a motor vehicle while impaired by alcohol despite having multiple previous
11 convictions involving driving under the influence of alcohol.

12 c. Respondent has subjected his registration to disciplinary action under section
13 4301(k) of the Code for unprofessional conduct in that on or about September 23, 2018,
14 Respondent was convicted on his plea of guilty to violating Vehicle Code section 23152(a),
15 driving under the influence of alcohol, and Vehicle Code section 23152(b), driving with a BAC of
16 .08 or more, misdemeanors. Respondent was additionally convicted of driving while his license
17 had been suspended for a prior DUI conviction (Veh. Code, § 14601.2(a)), and driving while his
18 license had been suspended for refusing to submit to a chemical test (Veh. Code, § 14601.5(a)).
19 Respondent was also convicted of DUI offenses on January 21, 2003, September 10, 2013, and
20 July 20, 2015.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 92131, issued to Respondent Andre Samuel Carazolez, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 26, 2020.

It is so ORDERED on February 25, 2020.



Greg Lippe
Board President
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID: SD2019702613

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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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. 6812

14 **ANDRE SAMUEL CARAZOLEZ**
15 **AKA ANDRE SAMUEL COROZOLEZ**
16 **874 Hollister Street, #18**
17 **San Diego, CA 92154**

ACCUSATION

18 **Pharmacy Technician Registration**
19 **No. TCH 92131**

Respondent.

20 **PARTIES**

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

24 2. On or about June 10, 2010, the Board issued Pharmacy Technician Registration
25 Number TCH 92131 to Andre Samuel Carazolez, also known as Andre Samuel Corozolez
26 (Respondent). The Pharmacy Technician Registration was in full force and effect at all times
27 relevant to the charges brought herein. The Pharmacy Technician Registration expired on
28 September 30, 2019, and was not renewed.

JURISDICTION

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

4. Section 4300 of the Code states: "Every license issued may be suspended or revoked."

5. Section 4300.1 of the Code states:

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

STATUTORY PROVISIONS

6. Section 482 of the Code states:

(a) Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

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

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the

licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

9. Section 4301 of the Code states:

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

...

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

...

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

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

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1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1769, subdivision (b) states:

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

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

7 (2) Total criminal record.

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

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

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

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

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

16 **COST RECOVERY**

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

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(May 20, 2019 Criminal Convictions for DUI on September 23, 2018)**

25 13. Respondent has subjected his registration to discipline under sections 490 and
26 4301(I) of the Code in that he was convicted of crimes that are substantially related to the
27 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

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1 a. On May 20, 2019, in a criminal proceeding entitled *People of the State of*
2 *California v. Andre Samuel Corozolez, aka Andre Samuel Carazolez*, in San Diego County
3 Superior Court, case number S304378, Respondent was convicted on his plea of guilty to
4 violating Vehicle Code section 23152(a), driving under the influence (DUI) of alcohol, and
5 Vehicle Code section 23152(b), driving with a blood alcohol concentration (BAC) of .08 or more,
6 misdemeanors. As to both counts, Respondent admitted, and the court found true, the special
7 allegations that Respondent had been convicted of two or more DUI's within the previous ten
8 years, within the meaning of Vehicle Code sections 23626 and 23546. Respondent was also
9 convicted of driving while his license had been suspended for a prior DUI conviction (Veh. Code,
10 § 14601.2(a)), and driving while his license had been suspended for refusing to submit to a
11 chemical test (Veh. Code, § 14601.5(a)). As a result of the convictions, Respondent was
12 sentenced to the custody of the sheriff for 180 days. The court authorized Respondent to serve
13 the sentence in a sober living facility. Respondent was granted summary probation for five years
14 on standard alcohol conditions, including a requirement to complete a Multiple Conviction
15 Program and a MADD program, pay fees and fines, and install an ignition interlock device on his
16 vehicle for one year. Respondent was designated a habitual traffic offender for three years.

17 b. The facts that led to the convictions are that at approximately 2 a.m. on
18 September 23, 2018, the Chula Vista Police Department responded to a gas station in reference to
19 a male (Respondent) bleeding profusely at the station. By the time officers arrived, Respondent
20 was already being transported to a hospital for treatment. Officers learned that Respondent had
21 been in a fight at a nearby bar, and had sustained a laceration to his left hand. Respondent
22 attempted to drive to the gas station, but ran out of gas and pushed his van into the station. At the
23 hospital, officers met with Respondent to conduct a DUI investigation. Respondent was
24 described as argumentative, his eyes were bloodshot and watery, his speech was slurred, and he
25 had a strong odor of alcohol on his breath. Respondent provided a blood sample that was
26 subsequently analyzed with a BAC of .19 percent at 4:20 a.m.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 14. Respondent has subjected his registration to disciplinary action under section 4301(h)
4 of the Code for unprofessional conduct in that on or about September 23, 2018, as described in
5 paragraph 13, above, which is incorporated herein by reference, Respondent operated a motor
6 vehicle while impaired by alcohol despite having multiple previous convictions involving DUI.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Multiple Misdemeanor Convictions Involving the Consumption of Alcohol)**

9 15. Respondent has subjected his registration to disciplinary action under section 4301(k)
10 of the Code for unprofessional conduct in that on or about September 23, 2018, as described in
11 paragraph 13, above, which is incorporated herein by reference, Respondent was convicted on his
12 plea of guilty to violating Vehicle Code section 23152(a), driving under the influence of alcohol,
13 and Vehicle Code section 23152(b), driving with a BAC of .08 or more, misdemeanors.
14 Respondent was additionally convicted of driving while his license had been suspended for a
15 prior DUI conviction (Veh. Code, § 14601.2(a)), and driving while his license had been
16 suspended for refusing to submit to a chemical test (Veh. Code, § 14601.5(a)). Respondent was
17 also convicted of DUI offenses on January 21, 2003, September 10, 2013, and July 20, 2015.

18 **DISCIPLINARY CONSIDERATIONS**

19 16. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant
20 to California Code of Regulations, title 16, section 1769, subdivision (b), Complainant alleges
21 that on or about December 11, 2013, in a prior action, the Board issued Citation Number CI 2013
22 57940 based on unprofessional conduct/dangerous use of alcohol, pursuant to Code section
23 4301(h); and, conviction of a crime substantially related to the qualifications, duties, and
24 functions of a pharmacy technician, pursuant to Code section 4301(l). The citation was based
25 upon Respondent's September 10, 2013, criminal convictions for violating Vehicle Code section
26 23152(a) – driving under the influence of alcohol; and Vehicle Code section 23152(b) – driving
27 with a BAC of .08 percent or more, misdemeanors. Respondent was assessed an administrative
28 fine of \$500.00. Board records indicate that this fine has not been paid.

17. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant to California Code of Regulations, title 16, section 1769, subdivision (b), Complainant alleges that on or about July 20, 2015, in a prior action, the Board issued Citation Number CI 2014 64664, based on unprofessional conduct/dangerous use of alcohol, pursuant to Code section 4301(h); unprofessional conduct/conviction of more than one misdemeanor, pursuant to Code section 4301(k); and, conviction of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy technician, pursuant to Code section 4301(l). The citation was based upon Respondent's June 3, 2015 criminal conviction for violating Vehicle Code section 23152(b) – driving with a BAC of .08 percent or more, with a prior conviction for DUI within the previous ten years (Veh. Code, §§ 23540 and 23546). Respondent was assessed an administrative fine of \$750.00. Board records indicate that this fine has been paid.

18. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant to California Code of Regulations, title 16, section 1769, subdivision (b), Complainant alleges that on or about January 21, 2003, in San Diego County Superior Court, case number S172756, Respondent was convicted on his plea of guilty of violating Vehicle Code section 23152(b) – driving with a BAC of .08 percent or more, a misdemeanor.

19. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant to California Code of Regulations, title 16, section 1769, subdivision (b), Complainant alleges that on or about January 16, 2009, in San Diego County Superior Court, case number S206091, Respondent was convicted on his plea of guilty of violating Penal Code section 529.3, false identification to a police officer, a misdemeanor.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 92131,
issued to Andre Samuel Carazolez;


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1 2. Ordering Andre Samuel Carazolez to pay the Board of Pharmacy the reasonable costs
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code
3 section 125.3; and,

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: December 3, 2019
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ANNE SODERGREN
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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