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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 **RYAN MACAVINTA**
14 15223 S. Normandie Avenue #4
15 Gardena, CA 90247

16 **Pharmacy Technician Registration No. TCH**
17 **145542**

18 Respondent.

Case No. 6920

19 **DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

20 **FINDINGS OF FACT**

21 1. On or about September 8, 2020, Complainant Anne Sodergren, in her official
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
23 filed Accusation No. 6920 against Ryan Macavinta (Respondent) before the Board of Pharmacy.
(Accusation attached as Exhibit A.)

24 2. On or about January 22, 2015, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 145542 to Respondent. The Pharmacy Technician Registration
26 expired on June 30, 2020, and has not been renewed.

27 3. On or about September 18, 2020, Respondent was served by Certified and First Class
28 Mail copies of the Accusation No. 6920, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 4100, is required to be reported and maintained with the Board. Respondent's address of
4 record was and is: 15223 S. Normandie Avenue #4, Gardena, CA 90247.

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

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

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

13 6. The Board takes official notice of its records and the fact that Respondent failed to
14 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
15 waived his right to a hearing on the merits of Accusation No. 6920.

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

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

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
24 as well as taking official notice of all the investigatory reports, exhibits and statements contained
25 therein on file at the Board's offices regarding the allegations contained in Accusation No. 6920,
26 finds that the charges and allegations in Accusation No. 6920, are separately and severally, found
27 to be true and correct by clear and convincing evidence.

28 9. The Board finds that the actual costs for Investigation and Enforcement are \$2,467.50
as of October 26, 2020.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Ryan Macavinta has subjected his Pharmacy Technician Registration No. TCH 145542 to discipline.

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

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

a. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a licensee or registrant.

b. Respondent is subject to disciplinary action under section 480, subdivision (a)(1)(A), in that Respondent committed acts that would have warranted denial of a license.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 145542, issued to Respondent Ryan Macavinta, 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 February 4, 2021 at 5:00 p.m.

It is so ORDERED January 5, 2021.

FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

By



Greg Lippe
Board President

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DOJ Matter ID:LA2020601854

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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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:

Case No. 6920

13 **RYAN MACAVINTA**
15223 S. Normandie Avenue #4
14 Gardena, CA 90247

ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
16 **145542**

Respondent.

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19 **PARTIES**

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

22 2. On or about January 22, 2015, the Board issued Pharmacy Technician Registration
23 Number TCH 145542 to Ryan Macavinta (Respondent). On or about June 22, 2020, in the
24 criminal proceeding titled: The People of the State of California v. Ryan Macavinta (Super. Ct.
25 L.A. County, No. BA484679), the court issued an order prohibiting Respondent from practicing
26 as a pharmacy technician pending a final disposition of the criminal case, which occurred on July
27 29, 2020. The Pharmacy Technician Registration expired on June 30, 2020, and has not been
28 renewed.

JURISDICTION AND STATUTORY PROVISIONS

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 490 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.

5. Section 493 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 grounds 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.'

6. Section 4300 provides that every license issued by the Board is subject to discipline, including suspension or revocation.

7. Section 4300.1 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.

8. Section 4301 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:

....

(I) 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

1 be conclusive evidence only of the fact that the conviction occurred. The board may
2 inquire into the circumstances surrounding the commission of the crime, in order to
3 fix the degree of discipline or, in the case of a conviction not involving controlled
4 substances or dangerous drugs, to determine if the conviction is of an offense
5 substantially related to the qualifications, functions, and duties of a licensee under
6 this chapter. A plea or verdict of guilty or a conviction following a plea of nolo
7 contendere is deemed to be a conviction within the meaning of this provision. The
8 board may take action when the time for appeal has elapsed, or the judgment of
9 conviction has been affirmed on appeal or when an order granting probation is made
10 suspending the imposition of sentence, irrespective of a subsequent order under
11 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
12 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
13 dismissing the accusation, information, or indictment.

14

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

16 **REGULATORY PROVISIONS**

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

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

25 **COST RECOVERY**

26 10. Section 125.3 provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of
28 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case, with failure of the licensee to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

29 **FIRST CAUSE FOR DISCIPLINE**

30 **(Unprofessional Conduct - Conviction of a Substantially Related Crime)**

31 11. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
32 (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent
33 was convicted of a crime substantially related to the qualifications, functions or duties of a
34 licensee or registrant. On or about July 29, 2020, Respondent pled nolo contendere and was

1 convicted of one (1) felony count of violating Penal Code section 311.11, subdivision (c)(2)
2 (possession of sadomasochistic child or youth pornography) in the criminal proceeding titled: *The*
3 *People of the State of California v. Ryan Macavinta* (Super. Ct. L.A. County, No. BA484679).
4 The court sentenced Respondent to two (2) years state prison, suspended, and placed him on five
5 (5) years' formal probation with terms and conditions. Additionally, Respondent was ordered to
6 complete an intensive residential treatment program. The circumstances surrounding the
7 convictions are that on or about December 23, 2019, Respondent was in possession or control of
8 child sexual abuse material involving the use of a person under 18 years of age personally
9 engaging in or simulating sexual conduct, and the matter portrayed sexual sadism or sexual
10 masochism involving a person under 18 years of age

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Conduct Warranting Denial of License)**

13 12. Respondent is subject to disciplinary action under section 480, subdivision (a)(1)(A),
14 in that Respondent committed acts that would have warranted denial of a license. Respondent was
15 convicted of a crime for which registration is required pursuant to paragraph (2) or (3) of
16 subdivision (d) of Section 290 of the Penal Code. Complainant realleges paragraph 11, as though
17 fully set forth herein.

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1 **PRAYER**

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

4 1. Revoking or suspending Pharmacy Technician Registration Number TCH 145542,
5 issued to Ryan Macavinta;

6 2. Ordering Ryan Macavinta to pay the Board of Pharmacy the reasonable costs of the
7 investigation and enforcement of this case, pursuant to Business and Professions Code section
8 125.3; and,

9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: 9/8/2020

Anne Sodergren

12 ANNE SODERGREN
13 Executive Officer
14 Board of Pharmacy
15 Department of Consumer Affairs
16 State of California
17 *Complainant*

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