

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

In the Matter of the Accusation Against:

CARA L. HAVERSTOCK, Respondent

Pharmacy Technician Registration No. TCH 166451

Agency Case No. 7016

OAH No. 2021010153

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 May 26, 2021.

It is so ORDERED on April 26, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg Lippe", is written over the printed name.

By

Greg Lippe
Board President

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PROPOSED DECISION

Marcie Larson, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter telephonically and by video conference on March 9, 2021, in Sacramento, California.

Patricia Webber Heim, Deputy Attorney General, represented complainant Anne Sodergren, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Jonathan Turner, Attorney at Law, represented respondent Cara L. Haverstock, who appeared at the hearing.

Evidence was received, the record was closed, and the matter was submitted for decision on March 9, 2021.

FACTUAL FINDINGS

Jurisdictional Matters

1. On or about April 20, 2018, the Board issued to respondent Pharmacy Technician Registration Number TCH 166451 (license). Her license will expire on September 30, 2021, unless renewed or revoked
2. On October 30, 2020, complainant, acting solely in her official capacity, signed and filed the Accusation. Complainant seeks to discipline respondent's license based upon her criminal convictions and her dangerous consumption of alcohol.
3. Respondent timely filed a Notice of Defense, pursuant to Government Code section 11506. The matter was set for an evidentiary hearing before an Administrative Law Judge of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Criminal Conviction

4. On March 12, 2020, in the Superior Court of California, County of Yolo, respondent, on a plea of no contest, was convicted of driving with a blood alcohol content (BAC) of .08 percent or greater (DUI), a violation of Vehicle Code section 23152, subdivision (b), a misdemeanor, with an enhancement for driving with a BAC over .15 percent, pursuant to Vehicle Code section 23578, subdivision (b)(4), a misdemeanor. Respondent was ordered to serve 19 days in jail and placed on three years of informal probation. She was also ordered to complete a nine-month drunk driver program, and to pay restitution, fines and fees totaling approximately \$2,200. Respondent completed her jail time through home detention.

5. The incident underlying respondent's DUI conviction occurred on December 11, 2019, at approximately 5:00 p.m. Respondent had been drinking alcohol at home. Her supervisor from CVS Pharmacy called her and asked her to cover a shift because the pharmacy was short-staffed. Respondent agreed. Respondent was driving her vehicle to work on a county road in Davis, California. Respondent decided she was too intoxicated to be driving and pulled her vehicle off the road. Her vehicle became stuck in the mud. She attempted to push the vehicle out of the mud. A passing driver stopped and telephoned for help.

An officer from the California Highway Patrol (CHP) arrived on the scene. He spoke to respondent who was seated in the driver's seat of her vehicle. The officer asked her for her driver's license. She was not able to locate it in her purse. The officer smelled the odor of alcohol. He asked respondent to exit her vehicle. Respondent complied. The officer observed respondent was having difficulty with her balance and was avoiding eye contact. The officer told respondent he was going to evaluate her for DUI. She agreed. Respondent failed to adequately perform a series of field sobriety tests. The officer arrested respondent and transported her to a CHP office. Respondent provided a blood sample which confirmed her BAC at .26 percent.

Respondent's Evidence

6. Respondent is 37 years old. She was raised in Davis, California. In 2006, she graduated from California State University, Chico with a degree in economics. She moved to San Francisco and worked in corporate retail inventory planning. Her work hours were long and stressful. As a result, she developed ulcerative colitis. She was hospitalized and placed on medication, including opioids. Overtime, she became dependent on the opioids. She completed a 30-day rehabilitation program and moved

back to Davis. Respondent learned to manage her condition with diet, exercise, and a healthy lifestyle.

7. After returning to Davis, respondent looked for a "new passion." She enrolled in a four-month pharmacy technician program, graduated, and obtained her license in August 2018. Respondent was hired at CVS Pharmacy in Woodland. Respondent enjoyed the work but found that retail pharmacy work was often stressful.

8. On the day of her DUI arrest, respondent was not scheduled to work. Respondent had been drinking alcohol and had no plans to leave her home and was not scheduled to work again for 36 hours. Respondent explained she had been experiencing stress at work and was having relationship issues, which prompted her drinking. At some point that day, respondent's boss called her and asked her to cover for a pharmacy technician who called out sick. Respondent explained that she is a "people pleaser" and agreed to cover the closing shift if her boss could not find anyone else. Respondent thought she had sufficient time to "sober up." However, her judgment was impaired.

9. As respondent was driving her vehicle to work, she realized she severely misjudged her level of intoxication. She decided to turn home. She pulled her vehicle off the road to text her boss and explain that she could not come to work. It had been raining and when respondent attempted to drive her vehicle, she realized it was stuck in the mud. She tried to push it out of the mud but was not successful. Someone passing called CHP and respondent was subsequently arrested.

10. After her arrest, respondent realized she needed help. In February 2020, she began DUI courses in anticipation of her criminal sentence. In June 2020, she began the nine-month DUI program. The same month she voluntarily attended an

intensive outpatient rehabilitation program through Kaiser Hospital. Respondent had been attending Narcotics Anonymous (NA) to support her sobriety, but she began attending meetings six to seven days per week. Respondent had attended Alcoholics Anonymous (AA) in the past but felt like she belonged with the people she met at NA. Respondent is working the steps of NA with her sponsor and she is in contact with her NA group members every day.

11. Her sobriety date is December 12, 2020. Respondent had not drunk alcohol since her arrest, but had a relapse on December 11, 2020, while dealing with stress of the holidays and pandemic. Respondent has never reported to work under the influence. Respondent explained that she is "not great with stress." She is learning stress management tools such as yoga and meditation. She received group counseling through the Kaiser rehabilitation program. Respondent assures the Board she has made positive changes in her life and will not allow any substance to prevent her from living a healthy life.

12. Respondent also found work that is fulfilling and less stressful. From September 2020 until January 2021, respondent worked for an insurance company in a call center. Her job was to serve as a liaison between doctors and pharmacies to ensure prior authorization for medications were completed for patients. Respondent was initially hired for the position through a temporary agency. After 90 days, the company wanted to hire respondent permanently but was not able to do so because of the pending Accusation against her license. Respondent's boss informed her that if she addresses the pending Accusation, she would like to re-hire respondent.

13. Respondent has not worked since January 2021. Her goal is to get her insurance company job back and advance her career with the company. Respondent will abide by any probation terms the Board imposes. Respondent understands she

made a “huge mistake,” which she will not repeat. Respondent cares deeply about her profession and patients. She would like the opportunity to continue work she loves.

14. Respondent submitted three letters of support. Two letters are from fellow NA members who describe respondent as a caring person dedicated to sobriety, who has taken her DUI conviction seriously. Respondent’s mother also provided a letter in which she explains respondent’s medical history and efforts she has made to remain sober. Respondent’s mother believes she has learned a valuable lesson from her DUI conviction and is determined to move forward and return to her profession.

Analysis

15. The determination whether to discipline a license should be made only after consideration of the conduct of the licensee and consideration of any factors introduced in justification, mitigation, aggravation and rehabilitation. The licensee “should be permitted to introduce evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation.” (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449; *Brandt v. Fox* (1979) 90 Cal.App.3d 737, 747.) In California Code of Regulations, title 16, section 1769, subdivision (c), the Board has set forth the following criteria for evaluating the rehabilitation of a licensee when considering the suspension or revocation of a license based upon a conviction:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).

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

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

16. Applying the rehabilitation criteria, one year ago respondent was convicted of driving with a BAC three times the legal limit. After her arrest, respondent immediately realized she needed help and took important steps towards recovery. She entered a Kaiser rehabilitation program and regularly attends NA meetings. She has a strong support system that includes her fellow NA members and her family. Respondent is remorseful and demonstrated that she does not intend to repeat her criminal conduct. Respondent found meaningful work and is looking forward to the opportunity to return to her position with the insurance company and advance her career in the pharmacy profession.

17. The Board and the public expect a pharmacy technician to act with good judgment, responsibility, maturity and integrity. When all the evidence is considered in light of the criteria set forth in California Code of Regulations, title 16, section 1769, subdivision (c), respondent established that she has engaged in sufficient rehabilitation since her conviction to maintain her pharmacy technician license, with terms and conditions to ensure her continued sobriety and protect the public.

Costs

18. Complainant has requested reimbursement for costs incurred by the Board in connection with the enforcement and prosecution of this matter, in the total amount of \$3,952.50. The costs were certified in the manner provided by Business and

Professions Code section 125.3, subdivision (c), as set forth in the Certification of Prosecution Costs and Declaration by Patricia Webber Heim, Deputy Attorney General. As set forth in Legal Conclusion 9, the Board's request for reimbursement of \$3,952.50 for its enforcement and prosecution costs is reasonable.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The standard of proof in an administrative disciplinary action seeking the suspension or revocation of a professional license is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) "Clear and convincing evidence" requires a finding of high probability. It must be sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re David C.* (1984) 152 Cal.App.3d 1189.) Complainant must meet this burden of proof for each cause for discipline alleged in the Accusation.

Applicable Law

2. Pursuant to Business and Professions Code section 490, the Board may "suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued."

3. Business and Professions Code section 4300 provides that the Board may suspend, revoke, or place any license on probation.

4. Business and Professions Code section 4301 provides that the Board shall take action against any holder of a license who is guilty of unprofessional conduct, including 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.

[¶] . . . [¶]

5. California Code of Regulations, title 16, section 1770, provides in pertinent part that:

(a) For the purpose of denial, suspension, or revocation of a personal or facility 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 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 functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

[¶] . . . [¶]

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, those which:

[¶] . . . [¶]

(5) Involve a conviction for driving under the influence of drugs or alcohol.

Cause for Discipline

6. As set forth in Factual Findings 4 and 5, cause to discipline respondent's license exists under Business and Professions Code sections 490 and 4301, subdivision (l). On March 12, 2020, respondent was convicted of DUI, a violation of Vehicle Code section 23152, subdivision (b), with an enhancement pursuant to Vehicle Code section 23578, subdivision (b)(4).

7. As set forth in Factual Findings 4 and 5, cause to discipline respondent's license exists under Business and Professions Code section 4301, subdivision (h). On December 11, 2019, respondent used alcoholic beverages to the extent or in a manner as to be dangerous or injurious to herself and the public.

8. As set forth in Factual Findings 4 and 5 cause to discipline respondent's license exists under Business and Professions Code section 4301, subdivision (k). Respondent was convicted of misdemeanors involving the use, consumption, or self-administration of an alcoholic beverage.

Costs

9. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated a licensing act may be ordered to pay the reasonable costs of investigation and prosecution of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

Complainant seeks \$3,952.50 in costs. When all the *Zuckerman* factors are considered, this cost amount is reasonable. Respondent should be allowed to pay these costs pursuant to a payment plan.

Conclusion

10. As set forth in Factual Findings 15 through 17, respondent has made commendable efforts toward rehabilitation, which demonstrate that she should be allowed to retain her license, with terms and conditions designed to protect the public health, safety, and welfare.

ORDER

Pharmacy Technician Registration Number TCH 166451 issued to respondent is revoked; however, the revocation is stayed and respondent is placed on probation for three years upon the following terms and conditions:

1. **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 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.

2. **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.

3. **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.

4. **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 her probation. Failure to cooperate shall be considered a violation of probation.

5. **Reporting of Employment and Notice to Employer:** During the period of probation, respondent shall notify all present and prospective employers of the decision in OAH No. 2021010153 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 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 OAH No. 2021010153 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that 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 her direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in OAH No. 2021010153 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 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 OAH No. 2021010153 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that 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.

6. **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.

7. **Reimbursement of Board Costs:** As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$3,952.50. Respondent shall be permitted to pay these costs in a payment plan approved by the board or its designee, so long as full payment is completed no later than one (1) year prior to the end date of probation.

8. **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.

9. **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 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 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.

10. **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.

11. **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 30 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 30 hours per calendar month in California, respondent must notify the Board in writing within ten (10) days of cessation of work and must further notify the Board in writing within ten (10) days of the resumption of the work. Any failure to provide such notification(s) shall be considered a violation of probation.

12. **Psychotherapy:** Within thirty (30) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, the name and qualifications of a licensed mental health practitioner of respondent's choice. Within thirty (30) days of approval thereof, respondent shall submit

documentation to the board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's own expense, a mental health evaluation by a board-appointed or board-approved psychiatrist or psychologist. If the approved evaluator recommends that respondent continue psychotherapy, the board or its designee may require respondent to continue psychotherapy.

Psychotherapy shall be at least once a week unless otherwise approved by the board. Respondent shall provide the therapist with a copy of the board's accusation and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the

board concerning respondent's fitness to practice, progress in treatment, and such other information required by the board or its designee.

If at any time the treating therapist determines that respondent cannot practice safely or independently, the therapist shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

During any suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances. Respondent shall not resume practice until notified by the board.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs and/or dangerous devices or controlled substances.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

13. **Drug and Alcohol Testing:** Respondent, at her own expense, shall participate in testing as directed by the board or its designee for the detection of alcohol, controlled substances, and dangerous drugs and/or dangerous devices. Testing protocols may include biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its designee. All testing must be pursuant to an observed testing protocol, unless respondent is informed otherwise in writing by the board or its designee. Respondent may be required to participate in testing for the entire probation period and frequency of testing will be determined by the board or its designee.

By no later than thirty (30) days after the effective date of this decision, respondent shall have completed all of the following tasks: enrolled and registered with an approved drug and alcohol testing vendor; provided that vendor with any documentation, and any information necessary for payment by respondent; commenced testing protocols, including all required contacts with the testing vendor to determine testing date(s); and begun testing. At all times, respondent shall fully cooperate with the testing vendor, and with the board or its designee, with regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to cooperate timely shall be considered a violation of probation.

Respondent may be required to test on any day, including weekends and holidays. Respondent is required to make daily contact with the testing vendor to determine if a test is required, and if a test is required must submit to testing on the same day.

Prior to any vacation or other period of absence from the area where the approved testing vendor provides services, respondent shall seek and receive approval from the board or its designee to use an alternate testing vendor to ensure testing can occur. Upon approval, respondent shall enroll and register with the approved alternate drug testing vendor, provide to that alternate vendor any documentation required by the vendor, including any necessary payment by respondent. During the period of absence of the area, respondent shall commence testing protocols with the alternate vendor, including required daily contacts with the testing vendor to determine if testing is required, and required testing. Any failure to timely seek or receive approval from the board or its designee, or to timely enroll and register with, timely commence testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be considered a violation of probation.

Upon detection of an illicit drug, controlled substance or dangerous drug, the board or its designee may require respondent to timely provide documentation from a licensed practitioner authorized to prescribe the detected substance demonstrating that the substance was administered or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such documentation shall be provided by respondent within ten (10) days of being requested.

Any of the following shall be considered a violation of probation and shall result in respondent being immediately suspended from practice as a pharmacy technician until notified by the board in writing that she may resume practice: failure to timely complete all of the steps required for enrollment/registration with the drug testing vendor, including making arrangements for payment; failure to timely commence drug testing protocols; failure to contact the drug testing vendor as required to determine testing date(s); failure to test as required; failure to timely supply documentation

demonstrating that a detected substance was taken pursuant to a legitimate prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee shall inform respondent of the suspension and inform her to immediately leave work, and shall notify respondent's employer(s) and work site monitor(s) of the suspension.

During any such suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices and controlled substances.

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of pharmacy, or of

the manufacturing, distributing, wholesaling, or retailing of dangerous drugs and/or dangerous devices.

Failure to comply with any such suspension shall be considered a violation of probation. Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

14. **Abstain from Drugs and Alcohol:** Respondent shall completely abstain from the possession or use of alcohol, controlled substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a necessary part of treatment. Respondent shall ensure that 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, dangerous drugs and/or dangerous devices or controlled substances, or their associated paraphernalia for which a legitimate prescription has not been issued as a necessary part of treatment, or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

15. **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 the number of group meetings per week or month directed by the board or its designee, which shall typically be at least one per week.

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.

16. **Work Site Monitor:** Within ten (10) days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board or its designee, who shall be responsible for supervising respondent during working hours. Respondent shall be responsible for ensuring that the work site monitor reports in writing to the board monthly or on another schedule as directed by the board or its designee. Should the designated work site monitor suspect at any time during the probationary period that respondent has abused alcohol or drugs, he or she shall notify the board immediately.

In the event of suspected abuse, the monitor shall make at least oral notification within one (1) business day of the occurrence, and shall be followed by written notification within two (2) business days of the occurrence. If, for any reason, including change of employment, respondent is no longer able to be monitored by the approved work site monitor, within ten (10) days respondent shall designate a new work site monitor for approval by the board or its designee. Failure to timely identify an acceptable initial or replacement work site monitor, or to ensure monthly reports are submitted to the board by the monitor, shall be considered a violation of probation.

Within thirty (30) days of being approved by the board or its designee, the work site monitor shall sign an affirmation that he or she has reviewed the terms and conditions of respondent's disciplinary order and agrees to monitor respondent. The work site monitor shall at least:

1) Have regular face-to-face contact with respondent in the work environment, at least once per week or with greater frequency if required by the board or its designee;

2) Interview other staff in the office regarding respondent's behavior, if applicable; and

3) Review respondent's work attendance.

The written reports submitted to the board or its designee by the work site monitor shall include at least the following information: respondent's name and license number; the monitor's name, license number (if applicable) and work site location; the date(s) the monitor had face-to-face contact with respondent; the staff interviewed, if applicable; an attendance report; notes on any changes in respondent's behavior or personal habits; notes on any indicators that may lead to substance abuse; and the work site monitor's signature.

Respondent shall complete the required consent forms and sign an agreement with the work site monitor and the board to allow the board to communicate with the work site monitor.

17. **Violation of Probation:** If respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

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

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.

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 30 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 30 hours as a pharmacy technician as defined by Business and Professions Code section 4115.

DATE: March 23, 2021

Marcie Larson

Marcie Larson (Mar 23, 2021 15:35 PDT)

MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings

1 XAVIER BECERRA
Attorney General of California
2 DAVID E. BRICE
Supervising Deputy Attorney General
3 PATRICIA WEBBER HEIM
Deputy Attorney General
4 State Bar No. 230889
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7519
Facsimile: (916) 327-8643
7 E-mail: Patricia.Heim@doj.ca.gov
Attorneys for Complainant
8

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. 7016

14 **CARA L. HAVERSTOCK**
15 **1219 Drexel Drive**
Davis, CA 95616

ACCUSATION

16 **Pharmacy Technician Registration No. TCH**
17 **166451**

Respondent.

18
19
20 **PARTIES**

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

23 2. On or about April 20, 2018, the Board issued Pharmacy Technician Registration
24 Number TCH 166451 to Cara L. Haverstock (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on September 30, 2021, unless renewed.

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1 **JURISDICTION**

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 4300 of the Code states, in pertinent part:

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

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

9 (1) Suspending judgment.

10 (2) Placing him or her upon probation.

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

12 (4) Revoking his or her license.

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

15 5. Section 4300.1 of the Code states:

16 The expiration, cancellation, forfeiture, or suspension of a board-issued license
17 by operation of law or by order or decision of the board or a court of law, the
18 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.

19
20 **STATUTORY PROVISIONS**

21 6. Section 4301 of the Code states, in pertinent part:

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

24

25
26 (h) The administering to oneself, of any controlled substance, or the use of any
27 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
28 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.

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(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.

....

7. Section 490 of the Code states, in pertinent part,

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

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

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code.

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1 **COST RECOVERY**

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

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of a Crime)**

10 9. Respondent is subject to disciplinary action under Code section 4301, subdivision (I),
11 and 490 on the grounds of unprofessional conduct, in that on or about March 12, 2020, in the
12 criminal proceeding entitled *People v. Cara Lynn Haverstock* (Yolo County Super. Ct., Case No.
13 CR-20-0742), Respondent was convicted by the court on her plea of no contest to violating
14 Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol content (BAC) of 0.08
15 percent or higher) enhanced pursuant to Vehicle Code section 23578, subdivision (b)(4) (BAC
16 more than 0.15 percent), a misdemeanor. The conviction is substantially related to the
17 qualifications, or duties of a pharmacy technician.

18 10. The circumstances are as follows: On or about December 11, 2019, a California
19 Highway Patrol (CHP) officer responded to a report of a traffic collision in Davis. Upon arrival,
20 the CHP officer observed Respondent sitting in the driver's seat of her vehicle, which was stuck
21 in the mud partially off the roadway in a drainage ditch. Respondent was unable to locate her
22 identification when asked, and declined to provide the CHP officer details of what happened.
23 Based on Respondent's appearance of intoxication, the CHP officer performed a series of field
24 sobriety tests (FST's), which Respondent failed to complete successfully. Respondent refused to
25 provide a breath test, and a blood test was completed following her arrest for driving under the
26 influence. Respondent admitted that her BAC was 0.26 percent.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 11. Respondent is subject to disciplinary action under Code section 4301,
4 subdivision (h), on the grounds of unprofessional conduct, in that on or about December 11, 2019,
5 Respondent consumed alcohol to an extent or in a manner as to be dangerous or injurious to
6 oneself, to any other person or to the public, as more particularly set forth above in paragraphs 9-
7 10.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Conviction of a Crime Involving the Consumption of Alcohol)**

10 12. Respondent is subject to disciplinary action under Code section 4301, subdivision (k),
11 on the grounds of unprofessional conduct, in that Respondent was convicted of a crime involving
12 the consumption of alcohol, as more particularly set forth above in paragraphs 9-10.

13 **PRAYER**

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

16 1. Revoking or suspending Pharmacy Technician Registration Number TCH 166451,
17 issued to Cara L. Haverstock;

18 2. Ordering Cara L. Haverstock to pay the Board of Pharmacy the reasonable costs of
19 the investigation and enforcement of this case, pursuant to Business and Professions Code section
20 125.3; and,

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

22
23
24 DATED: 10/30/2020 _____

Signature on File

25 ANNE SODERGREN
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

SA2020303078
Cara Haverstock ACC.docx