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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 **NOEL AUGUSTINE AMBRIZ**
14 **6655 Brooke Falls Circle**
Stockton, CA 95219

15 **Pharmacy Technician Registration No. TCH**
16 **141614**

17 Respondent.

Case No. 7017

OAH No. 2020100724

DEFAULT DECISION AND ORDER

[Gov. Code §11520]

18
19 **FINDINGS OF FACT**

20 1. On or about October 9, 2020, Complainant Anne Sodergren, in her official capacity
21 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs,
22 filed Accusation No. 7017 against Noel Augustine Ambriz (Respondent) before the Board.
23 (Accusation attached as Exhibit A.)

24 2. On or about September 19, 2014, the Board issued Pharmacy Technician Registration
25 Number TCH 141614 to Respondent. The Pharmacy Technician Registration was in full force
26 and effect at all times relevant to the charges brought in Accusation No. 7017 and will expire on
27 December 31, 2021, unless renewed.

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- 1 3. On or about October 15, 2020, Respondent was served with Accusation No. 7017.
- 2 4. On or about October 20, 2020, Respondent signed and returned a Notice of Defense,
- 3 requesting a hearing in this matter.
- 4 5. On October 27, 2020, a Notice of Hearing was served by mail at Respondent's
- 5 address of record which was and is:
- 6 6655 Brooke Falls Circle
- 7 Stockton, CA 95219.
- 8 The Notice of Hearing informed Respondent that an administrative hearing in this matter
- 9 was scheduled for January 25, 2021.
- 10 6. Service of the Accusation was effective as a matter of law under the provisions of
- 11 Government Code section 11505(c) and/or Business and Professions Code section 124.
- 12 7. The matter was called for hearing at the date, time, and location set forth in the Notice
- 13 of Hearing. The assigned Administrative Law Judge found that service of the Notice of Hearing
- 14 on Respondent was proper. There was no appearance by or on behalf of Respondent. A default
- 15 was declared and on motion of counsel for Complainant, the matter was remanded to the Board
- 16 under Government Code section 11520.
- 17 8. Government Code section 11506(c) states, in pertinent part:
- 18 (c) The respondent shall be entitled to a hearing on the merits if the respondent
- 19 files a notice of defense . . . and the notice shall be deemed a specific denial of all
- 20 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
- 21 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
- 22 discretion may nevertheless grant a hearing.
- 23 9. Government Code section 11520(a) states, in pertinent part:
- 24 (a) If the respondent either fails to file a notice of defense . . . or to appear at
- 25 the hearing, the agency may take action based upon the respondent's express
- 26 admissions or upon other evidence and affidavits may be used as evidence without
- 27 any notice to respondent
- 28 10. 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

1 therein on file at the Board's offices regarding the allegations contained in Accusation No. 7017,
2 finds that the charges and allegations in Accusation No. 7017, are separately and severally, found
3 to be true and correct by clear and convincing evidence.

4 11. The Board finds that the actual costs for Investigation and Enforcement are \$3,508.75
5 as of December 16, 2020.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Noel Augustine Ambriz has
8 subjected his Pharmacy Technician Registration Number TCH 141614 to discipline.

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

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

13 a. Violation of Business and Professions Code sections 490 and 4301, subdivision (l), in
14 that Respondent has been convicted of a crime that is substantially related to his qualifications,
15 functions, and duties as a pharmacy technician. The circumstances are that on or about February
16 14, 2020, in *People v. Noel Augustine Ambriz*, Superior Court of California, County of San
17 Joaquin, case no. CR-20-1649, Respondent pled no contest to a misdemeanor charge of violating
18 Vehicle Code section 23152, subdivision (b) (driving under the influence of alcohol (DUI) with a
19 blood alcohol level of .08% or more). Respondent admitted his blood alcohol content was
20 .10/.11%.

21 b. Violation of Business and Professions Code section 4301, subdivision (f), on the
22 grounds of unprofessional conduct, in that Respondent committed an act involving moral
23 turpitude, dishonesty, fraud, deceit, or corruption when he used his brother's name instead of his
24 own in response to questioning from a police officer during Respondent's DUI arrest on February
25 8, 2020.

26 c. Violation of Business and Professions Code section 4301, subdivision (h), on the
27 grounds of unprofessional conduct, in that Respondent used alcohol to the extent or in a manner
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1 as to be dangerous or injurious to himself or others, as set forth in paragraph 3, subdivision (a),
2 above.

3 d. Violation of Business and Professions Code section 4301, subdivision (k), on the
4 grounds of unprofessional conduct, in that Respondent has been convicted of more than one
5 misdemeanor involving the use of alcohol. The facts and circumstances are as follows:

6 i. On or about October 14, 2014, in *People v. Noel Augustine Ambriz*, Superior
7 Court of California, County of San Joaquin, case no. MM129722A, Respondent was convicted of
8 violating Vehicle Code section 23152(b) (driving under the influence of alcohol with a blood
9 alcohol level of .08% or higher), a misdemeanor.

10 ii. On or about March 28, 2016, in *People v. Noel Augustine Ambriz*, Superior
11 Court of California, County of San Joaquin, case no. CR-2016-2556, Respondent was convicted
12 of violating Vehicle Code section 23152(b) (driving under the influence of alcohol with a blood
13 alcohol level of .08% or higher), a misdemeanor; an enhancement under Vehicle Code section
14 23540; and a violation of Vehicle Code section 14601(a) (driving while license suspended or
15 revoked).

16 iii. On or about February 14, 2020, Respondent pled no contest to a misdemeanor
17 charge of violating Vehicle Code section 23152(b) (driving under the influence of alcohol with a
18 blood alcohol level of .08% or more), as set forth more fully in paragraph 3, subdivision (a),
19 above.

20 e. On or about July 21, 2016, in a prior action, the Board of Pharmacy issued Citation
21 Number CI 2015 70130 and ordered Respondent to pay a fine of \$1,750.00. The Citation was
22 based upon Respondent's prior criminal convictions as described in paragraph 3, subdivisions (a)
23 and (d), above.

24 **ORDER**

25 IT IS SO ORDERED that Pharmacy Technician Registration Number TCH 141614, issued
26 to Respondent Noel Augustine Ambriz, is revoked.

27 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
28 written motion requesting that the Decision be vacated and stating the grounds relied on within

1 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
2 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

3 This Decision shall become effective on March 26, 2021 at 5:00 p.m..

4 It is so ORDERED February 24, 2021

5 FOR THE BOARD OF PHARMACY
6 DEPARTMENT OF CONSUMER AFFAIRS

7 By



8 _____
9 Greg Lippe
10 Board President

11 SA2020303065

12 Attachment:
13 Exhibit A: Accusation
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Exhibit A

Accusation

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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. 7017

14 **NOEL AUGUSTINE AMBRIZ**
15 **6756 Brook Falls Circle**
Stockton, CA 95219

ACCUSATION

16 **Pharmacy Technician License No. TCH**
17 **141614**

Respondent.

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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, Department of Consumer Affairs.

23 2. On or about September 19, 2014, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 141614 to Noel Augustine Ambriz (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on December 31, 2021, unless renewed.

27 ///

1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a), of the Code states, “[e]very license issued may be
6 suspended or revoked.”

7 5. Section 4300.1 of the Code states, “[t]he expiration, cancellation, forfeiture, or
8 suspension of a board-issued license by operation of law or by order or decision of the board or a
9 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
10 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
11 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
12 suspending or revoking the license.”

13 **STATUTORY PROVISIONS**

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

18 7. Section 4301 of the Code states, in pertinent part:

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

21 . . .

22 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
23 deceit, or corruption, whether the act is committed in the course of relations as a
licensee or otherwise, and whether the act is a felony or misdemeanor or not.

24 . . .

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

28 . . .

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

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

23 **COST RECOVERY**

24 8. Section 125.3 of the Code states, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of investigation and enforcement
27 of the case.

28 **FIRST CAUSE FOR DISCIPLINE**

(Unprofessional Conduct—Conviction of a Crime Substantially Related to the Qualifications, Functions, and Duties of Licensee)

9. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
(l) of the Code in that Respondent has been convicted of a crime that is substantially related to his
qualifications, functions, and duties as a pharmacy technician. The circumstances are as follows:

10. On or about February 14, 2020, in *People v. Noel Augustine Ambriz*, Superior Court
of California, County of San Joaquin, case no. CR-20-1649, Respondent pled no contest to a
misdemeanor charge of violating Vehicle Code section 23152, subdivision (b) (driving under the
influence of alcohol (DUI) with a blood alcohol level of .08% or more). Respondent admitted his

1 blood alcohol content was .10/.11%. Respondent was ordered to pay fines, sentenced to 120 days
2 in jail, and placed on three years' probation. The facts and circumstances are as follows:

3 11. On or about February 8, 2020, at approximately 2:48 a.m., an officer from the
4 Manteca Police Department observed Respondent's vehicle drive through a stop sign. The officer
5 then observed the vehicle travel on the opposite side of the road. The officer attempted to initiate
6 a traffic stop. Initially, Respondent failed to yield, however Respondent eventually stopped his
7 vehicle. As the officer exited his vehicle, Respondent stepped out of his vehicle with his hands
8 up. Respondent knelt on the ground with his hands up. The officer approached Respondent and
9 ordered Respondent to stay on the ground. As the officer gave Respondent multiple orders to stay
10 on the ground, Respondent dropped his hands towards his waist and jumped to his feet. The
11 officer guided Respondent to the ground and placed him in handcuffs. As the officer began
12 speaking with Respondent, he could smell a strong odor of alcohol coming from Respondent.
13 The officer noticed that Respondent's eyes were bloodshot and glossy. Respondent informed the
14 officer his name was Nico Ambriz. Respondent admitted to drinking four 12 oz. Modelo's at the
15 Extreme bar between 10 p.m. and 1 a.m. After Respondent failed the standardized field sobriety
16 test, the officer administered a preliminary alcohol screening test which revealed Respondent's
17 blood alcohol content to be .129%. The officer arrested Respondent and transported him to the
18 Manteca Police Department. Once at the Manteca Police Department, the officer reviewed
19 Respondent's driver's license and noted that the name on the license was different from the name
20 Respondent provided to the officer. Respondent admitted that he used his younger brother's
21 name, Nico, rather than his name because he had a DUI in the past and was on DUI probation. At
22 the Manteca Police Department, Respondent's blood alcohol level was measured at .10 and .11%.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct—Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or** 25 **Corruption)**

26 12. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
27 Code, on the grounds of unprofessional conduct, in that Respondent committed an act involving
28 moral turpitude, dishonesty, fraud, deceit, or corruption when he used his brother's name instead

1 of his own in response to questioning from a police officer. The facts and circumstances are
2 described with more particularity in paragraph 11, above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct—Use of a Dangerous Drug or Alcoholic Beverage to the Extent or**
5 **in a Manner as to be Dangerous or Injurious to Oneself or Others)**

6 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),
7 on the grounds of unprofessional conduct, in that Respondent used alcohol to the extent or in a
8 manner as to be dangerous or injurious to himself or others. The facts and circumstances are
9 described with more particularity in paragraphs 10-11, above.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct—Conviction of More Than One Misdemeanor or any Felony**
12 **Involving the Use, Consumption, or Self-Administration of Any Dangerous Drug or**
13 **Alcoholic Beverage)**

14 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (k),
15 on the grounds of unprofessional conduct, in that Respondent has been convicted of more than
16 one misdemeanor involving the use of alcohol. The facts and circumstances are as follows:

17 15. On or about October 14, 2014, in *People v. Noel Augustine Ambriz*, Superior Court of
18 California, County of San Joaquin, case no. MM129722A, Respondent was convicted of violating
19 Vehicle Code section 23152(b) (driving under the influence of alcohol with a blood alcohol level
20 of .08% or higher), a misdemeanor.

21 16. On or about March 28, 2016, in *People v. Noel Augustine Ambriz*, Superior Court of
22 California, County of San Joaquin, case no. CR-2016-2556, Respondent was convicted of
23 violating Vehicle Code section 23152(b) (driving under the influence of alcohol with a blood
24 alcohol level of .08% or higher), a misdemeanor; an enhancement under Vehicle Code section
25 23540; and a violation of Vehicle Code section 14601(a) (driving while license suspended or
26 revoked).

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17. On or about February 14, 2020, Respondent pled no contest to a misdemeanor charge of violating Vehicle Code section 23152(b) (driving under the influence of alcohol with a blood alcohol level of .08% or more), as set forth more fully in paragraph 10 above.

DISCIPLINE CONSIDERATIONS

18. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about July 21, 2016, in a prior action, the Board of Pharmacy issued Citation Number CI 2015 70130 and ordered Respondent to pay a fine of \$1,750.00. That Citation is now final. The Citation was based upon Respondent's prior criminal convictions as described in paragraphs 15-16, above.

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 141614, issued to Noel Augustine Ambriz;
2. Ordering Noel Augustine Ambriz to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/9/2020

Signature on File

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SA2020303065