

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

**In the Matter of the Accusation Against:**

**DANIEL ROBERT SANDY, Respondent**

**Pharmacist License No. RPH 48568**

**Agency Case No. 7255**

**OAH No. 2022040647**

**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 17, 2023.

It is so ORDERED on February 15, 2023.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh".

Seung W. Oh, Pharm.D.  
Board President

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

**In the Matter of the Accusation Against:**

**DANIEL ROBERT SANDY, Respondent**

**Agency Case No. 7255**

**OAH No. 2022040647**

**PROPOSED DECISION**

Sean Gavin, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on December 14, 2022, from Sacramento, California.

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

Ivan Petrzelka, attorney at law, represented Daniel Robert Sandy (respondent), who was present at the hearing.

Evidence was received, the record closed, and the matter was submitted for decision on December 14, 2022.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On March 15, 1996, the Board issued respondent Pharmacist License Number RPH 48568 (license). The license was active at all relevant times and will expire on October 31, 2023, unless renewed or revoked.

2. On March 24, 2022, complainant, acting in her official capacity, signed and thereafter filed an Accusation seeking to discipline respondent's license based on his dangerous use of alcohol on December 10, 2020. Respondent filed a Notice of Defense. This hearing followed.

### **Events of December 10, 2020**

3. On December 10, 2020, a few minutes after midnight, Redding Police Department officers responded to the scene of a car accident. When they arrived, they saw that respondent had driven into a parked car. Respondent told the officers he was drunk and should not have driven. He also told them he drank four shots of vodka before driving. He performed poorly on field sobriety tests and was arrested. His blood alcohol content (BAC) was later determined to be 0.224 percent via blood sample.

4. On January 27, 2021, respondent was charged with driving under the influence of alcohol (DUI) and driving with a BAC of 0.08 percent or greater, in violation of Vehicle Code section 23152, subdivisions (a) and (b). On April 30, 2021, the Court granted respondent diversion under Penal Code sections 1001.95 through 1001.97, such that upon completion of certain requirements, including abstaining from alcohol, completing a nine-month DUI class, completing 20 hours of community service, installing an ignition interlock device in his car until February 2022, and

attending a victim impact panel, he would be released with no conviction. Respondent completed the terms of his diversion and on October 31, 2022, the Court dismissed the case against him.

## **Complainant's Evidence**

5. Karla Retherford-Parreira is a licensed pharmacist and has been an inspector with the Board for almost 12 years. Before working for the Board, she worked as a retail pharmacist and as the director of outpatient services at a hospital. She is familiar with the duties of pharmacists, which include filling prescriptions and consulting with patients. Pharmacists have access to all medications, including dangerous drugs and controlled substances. Pharmacists must therefore show leadership, follow rules, and be trustworthy. Based on their responsibilities, the Board expects pharmacists to exercise good judgment and make good decisions.

6. Debi Mitchell has worked for the Board since 2009, most recently as a senior licensing manager and the manager of the Board's Pharmacist Recovery Program (PRP). When pharmacists are referred to the PRP, a third-party vendor first assesses them for potential drug or alcohol dependence. Those determined to need treatment must then participate in the PRP and comply with other conditions. Those determined not to need treatment are released from the PRP.

7. Pharmacists in the PRP usually participate for two-and-a-half to five years. During that time, they must abstain from drugs and alcohol and submit to random biological fluid testing, which usually happens 24 to 52 times annually. They must also pay a \$100 monthly fee and pay for all testing costs, which are usually between \$60 and \$100 per test.

## **Respondent's Evidence**

8. Respondent has been a licensed pharmacist for approximately 26 years with no prior license discipline. He is licensed in California and Idaho. He has worked as a retail pharmacist and pharmacy manager. Since approximately 2013, he has worked for the Department of Veterans Affairs (VA), first as a staff pharmacist and then as a supervisor and division manager. He has been a call center pharmacist for the VA since March 2022.

9. Respondent does not dispute the grounds to discipline him. Rather, he disputes the level of proposed discipline as unduly punitive. He characterized his DUI as an isolated error in judgment. He was going through an adversarial divorce with his wife. The night before his arrest, he was repairing their rental home so his wife could move into it. He was "distraught, upset, and feeling sorry for [him]self." He drank vodka while he worked on the house but did not measure how much he drank. His original plan was to walk back to his house, which was nearby, when he finished. He does not recall deciding to drive instead.

10. After his arrest, respondent did "a lot of introspection." He talked about his DUI with his friends and colleagues and told his direct staff about his arrest the day after it as "part of his healing process." In approximately mid-2021, he gave a presentation on the potential license ramifications of substance abuse to his pharmacy manager team at the VA.

11. In addition, between January 16, 2021, and November 19, 2022, respondent took 116.25 hours of continuing education courses. This included 19.75 hours toward a Substances of Abuse Specialty Pharmacist Certificate, which he earned on August 3, 2022. A one-hour module within that training was titled "A Glass Half

Full: A Review of Alcohol.” None of the other course titles addressed alcohol specifically.

12. Respondent has not used alcohol since the night of his arrest. On February 4, 2021, he paid for a urine test that was negative for alcohol, amphetamines, cocaine, marijuana, opiates, and phencyclidine (PCP). He also underwent hair testing for ethyl glucuronide, a metabolite of alcohol, in June 2021, August 2021, June 2022, July 2022, August 2022, and November 2022. All tests were negative. He was not required to undergo the tests by court order, but rather did so because wanted to show the Board that he has abstained from alcohol. He has not attended Alcoholics Anonymous (AA) or other similar support groups.

13. Respondent believes participating in the PRP would be financially difficult. He submitted an income and expense declaration he recently filed in his divorce matter. It shows a monthly gross income of approximately \$13,500 and monthly expenses of approximately \$10,600. Given that he has never been diagnosed with an alcohol or substance use disorder and therefore does not believe he is a good candidate for the PRP, he does not want to incur the costs associated with the PRP.

### **PSYCHOLOGICAL EVALUATION**

14. On November 17, 2022, respondent underwent a psychological evaluation by Martin Williams, Ph.D. Dr. Williams is a licensed psychologist in California and Virginia. He earned his Ph.D. in psychology in 1975 and practiced at Kaiser Permanente from 1980 through 2007. He has also maintained a private practice in forensic psychology since 1993. From 2017 to the present, he has been involved with the State Bar of California’s Lawyer Assistance Program as a member of the evaluation committee (2017–2018), treatment provider (2019–2020), and member of the oversight

committee (2020 to the present). In 2011, the Board approved a different licensee's request to use Dr. Williams for an independent psychological evaluation. He received similar approvals from the Board of Registered Nursing and the Board of Occupational Therapy in 2006 and 2019, respectively. His current practice includes diagnosing and treating substance use disorders. In the past five years, he has evaluated more than 100 healthcare professionals for substance use disorders.

15. Dr. Williams interviewed respondent and completed a mental status examination. As part of the examination, Dr. Williams had respondent complete the Minnesota Multiphasic Personality Inventory-3 (MMPI-3), a psychological test designed to assess patterns of personality and emotional disturbances. Dr. Williams analyzed respondent's MMPI-3 scores and found the results usable and "within the parameters for scoring." Based on the interview, mental status exam, and the MMPI-3 results, Dr. Williamson prepared a written report. He testified at hearing consistent with his report.

16. In his report, Dr. Williamson concluded respondent has "no dysfunction in the realms of emotion, cognition, somatic concerns, thinking, interpersonal functioning or behavior." In his opinion, respondent is "mentally healthy," has no diagnosable mental condition, and "warrants no mental health or substance abuse diagnosis." Specifically, Dr. Williamson opined respondent "is not addicted to alcohol [and] he has had no difficulty discontinuing all alcohol use, as documented by his testing." Consequently, Dr. Williams believes "there would be no benefit in subjecting [respondent] to an alcohol recovery program." He also noted, "there is nothing that [respondent] could learn from an alcohol recovery program. Indeed, [respondent] could teach at an alcohol recovery based on the continuing education in which he elected to enroll subsequent to his arrest."

## CHARACTER EVIDENCE

17. At hearing, George Faris, PharmD, testified on respondent's behalf. He also wrote a letter of support. He met respondent in 1995 and they worked together for approximately 15 years at different facilities. Dr. Faris described respondent as an "excellent pharmacist" who practices with "the utmost competence and integrity." Shortly after his arrest, respondent disclosed the situation to his peers and subordinates at work, including Dr. Faris. He explained his remorse and talked about how he would avoid similar behavior in the future. Dr. Faris has socialized with respondent at work events but not outside of work. He has never seen respondent drink to excess and never saw him impaired at work. He would trust respondent to handle his and his family prescriptions without hesitation.

18. Jacie Jones, a nurse practitioner who formerly worked with respondent at the VA, testified on respondent's behalf. She also wrote a letter of support. She has known respondent for almost six years and found him to be "thorough, approachable, always honest, and always available" as a pharmacist. She also believes he is "a genuinely good person." She believes his DUI was "completely out of character." When respondent told Ms. Jones about the events, he stressed that he "really screwed up." She and respondent no longer work together but still see one another "quite a bit." They often ride their bikes together and, in the past, would sometimes drink a beer after. She has not seen respondent use alcohol since December 2020 and has never seen him drink alcohol to excess. She does not believe he poses a risk to the public. Instead, in her opinion, "this one isolated lapse in judgment did not lessen his professionalism and his commitment to the well-being of our patients."

19. Respondent also submitted 10 letters of support from other friends and current and former coworkers. Karsten Duncan, PharmD, has been respondent's



supervisor for three years and noted that respondent is “trustworthy [and] has had no issues with managing his staff and the overall pharmacy activities to which he was assigned.” Collectively, the other authors described respondent as “the hardest working pharmacist,” reliable, honest, diligent, responsible, organized, efficient, professional, and patient-centered. Each of the authors noted that respondent never exhibited any signs of alcohol abuse before his DUI. They also noted that respondent told them about his DUI shortly after it happened, took full responsibility for his misconduct, and asked for their help and support.

## **Analysis**

20. Respondent does not dispute that his December 2020 DUI constituted a dangerous use of alcohol that subjected his license to discipline. As a result, the proper focus in this matter is not whether there is cause for discipline, but rather the appropriate level of discipline. The Board has adopted disciplinary guidelines (Guidelines) for use in reaching a decision in disciplinary actions. (Cal. Code Regs., tit. 16, § 1760.) According to the Guidelines, factors to consider when determining the appropriate penalty include: actual or potential harm to the public or any consumer; prior disciplinary record; the number and/or variety of current violations; nature and severity of the misconduct; aggravating, mitigating, or rehabilitation evidence; compliance with criminal sentence or probation; and the time passed since the misconduct occurred.

21. Under the Guidelines, the recommended discipline based on a licensee’s dangerous use of alcohol ranges from revocation to revocation stayed with five years’ probation under appropriate terms and conditions. It is only appropriate to deviate from these guidelines when the Board determines that the circumstances of a particular case warrant it, such as in the presence of mitigating factors. Examples of

mitigating evidence includes, as relevant here: written statements from supervisors and others familiar with respondent and his rehabilitation; "Recent, dated, laboratory analyses or drug screen reports, confirming abstention from drugs and alcohol"; and "Recent, dated, physical examination/assessment report(s) by a licensed physician, confirming the absence of any physical impairment that would prohibit the respondent from practicing safely."

22. In this case, it is appropriate to deviate from the Guidelines. Specifically, although the Guidelines recommend five years of probation as a minimum, in this case, a three-year probation term is more appropriate. Respondent testified openly and honestly and was found to be a credible and truthful witness. He credibly explained the circumstances that led to his DUI. The statements from his friends and coworkers unanimously support his own opinion that this was an isolated incidence of poor judgment. Respondent has taken responsibility for his actions, used his experience to help others in the pharmacy community avoid similar misconduct, and understands how to avoid similar mistakes in the future. He also has the support of his current and past medical colleagues, including his supervisor.

23. Additionally, respondent has stopped using alcohol and underwent several urine and hair toxicology tests to demonstrate his ongoing abstinence. He also hired Dr. Williams to psychologically evaluate him for substance use disorder. Dr. Williams concluded that no clinical findings suggest such a disorder or any other mental health diagnosis.

24. Despite this evidence of rehabilitation, probation is appropriate for public protection to ensure respondent's ongoing sobriety. Although respondent had multiple negative toxicology tests, they were not random because he chose the timing. Additionally, from the date of his arrest through October 31, 2022, respondent was

facing criminal charges and, for most of that time, was subject to the Court's diversion terms and conditions. These facts attenuate his abstinence. "Since persons under the direct supervision of correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that [the licensee] did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole." (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.)

25. Finally, although Dr. Williams concluded that respondent does not have a substance use disorder, his evaluation was not done as part of the PRP. Furthermore, some of his conclusions appeared to exaggerate respondent's rehabilitative progress. Specifically, Dr. Williams opined, "there is nothing that [respondent] could learn from an alcohol recovery program. Indeed, [respondent] could teach at an alcohol recovery based on the continuing education in which he elected to enroll subsequent to his arrest." However, upon review of his continuing education courses, only one hour of instruction addressed alcohol in its course title.

26. The legislature created the PRP with the intent of returning pharmacists to practice "in a manner that will not endanger the public health and safety." (Bus. & Prof. Code,<sup>1</sup> § 4360.) A major component of the PRP is the initial evaluation. (§ 4366, subd (a).) Respondent's objections to participating in the PRP are based on the cost and his belief that he does not have a problem with alcohol. However, the costs are not prohibitive, and if respondent is correct that he is not a good candidate for ongoing enrollment in the PRP, the evaluation should detect that.

---

<sup>1</sup> All statutory references are to the Business and Professions Code, unless otherwise specified.

27. When all the evidence is considered as a whole, respondent established that he has engaged in sufficient rehabilitation such that revoking his license is unnecessary. However, to protect the public and ensure that respondent does not reoffend, his license should be subject to the Board's probationary terms and conditions. Considering his rehabilitation efforts thus far, placing his license on probation for three years, as opposed to five, strikes the appropriate balance for public protection.

## **Costs**

28. Pursuant to section 125.3, complainant requested respondent be ordered to reimburse the Board its costs for the prosecution of this matter. Complainant submitted a Certification of Prosecution Costs signed by Ms. Jarvis, which states she and her colleagues billed the Board \$6,753.75 in costs for 30.75 hours of time enforcing this matter and includes a daily itemization of the tasks performed and time consumed. A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. (§ 125.3, subd. (c).)

29. Respondent objected to the reasonableness of complainant's costs, arguing they were excessive because five different deputy attorneys general worked on the matter. In addition, respondent argued that his financial condition, as reflected in his income and expense declaration, warrants a further reduction in costs. Complainant's request for costs and respondent's arguments are discussed in the Legal Conclusions below.

## LEGAL CONCLUSIONS

1. In an action to discipline a pharmacist's license, complainant bears the burden to prove her case by clear and convincing evidence. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855–856.) Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt; it requires sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.) Once cause for discipline is established, the burden of proof shifts to respondent to demonstrate sufficient rehabilitation by a preponderance of the evidence. (*Whetstone v. Bd. of Dental Examiners* (1927) 87 Cal.App.156, 164.) "Preponderance of the evidence means such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth." (*People v. Condley* (1977) 69 Cal.App.3d 999, 1008.)

### Cause for Discipline

2. Every license issued by the Board may be suspended or revoked. (§ 4300, subd. (a).) The Board may discipline a licensee based on "[t]he administering to oneself . . . or the use of . . . alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself . . . or to any other person or to the public." (§ 4301, subd. (h).) As discussed in Factual Findings 3 and 4, on December 10, 2020, respondent drove with a BAC of 0.224 percent and crashed into a parked car. This conduct involved his self-administration of alcohol to an extent or in a manner that was dangerous to him and the public. Cause therefore exists to discipline respondent's license pursuant to section 4301, subdivision (h).

## **Appropriate Discipline**

3. As discussed in Factual Findings 20 through 27, respondent demonstrated by a preponderance of the evidence that he has undergone enough rehabilitation such that his continued licensure as a pharmacist would be consistent with public health, safety, and welfare. However, the circumstances warrant probation because respondent has only abstained from alcohol for slightly more than two years, most of which was spent complying with the criminal court's diversion conditions. He has not been subject to random biological fluid testing and has not attended AA or other support group meetings. Respondent's rehabilitative efforts should be continued pursuant to the probationary terms identified in the order below to ensure safety to the public. Given those efforts to date, his probation should be for a term of three years rather than five.

## **Costs**

4. Section 125.3 provides that 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 under statutory provisions such as section 125.3. Those factors include whether the licensee was successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his position, whether the licensee 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.

5. As discussed in Factual Findings 28 and 29, complainant seeks \$6,753.75 in enforcement costs. When applying the *Zuckerman* factors, that amount is excessive. Assessing the full costs to respondent would unfairly penalize him for using the hearing process to defend himself and seek a reduction of the discipline sought. Furthermore, respondent not only maintained a subjective good faith belief in the merits of his position but was successful in reducing the probationary term. On the other hand, respondent did not provide evidence to prove it was unreasonable for multiple attorneys general to work on the case, nor did he prove that the costs should be reduced based on his financial condition. Under these circumstances, reducing the Board's costs to \$5,000 and permitting respondent to pay those costs pursuant to a monthly payment plan is appropriate.

## **ORDER**

Pharmacist License Number RPH 48568 issued to respondent Daniel Robert Sandy is REVOKED; however, the order of 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 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
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's 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 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 for two 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 his probation, including but not limited to: timely responses to requests for information by Board staff; timely compliance with directives from Board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

5. **Continuing Education.** Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board or its designee.

6. **Reporting of Employment and Notice to Employers.** During the period of probation, respondent shall notify all present and prospective employers of this decision in case number 7255 and the terms, conditions and restrictions imposed on respondent by this decision, as follows:

Within 30 days of the effective date of this decision, and within 10 days of undertaking any new employment, respondent shall report to the Board in writing the name, physical address, and mailing address of each of his employer(s), and the name(s) and telephone number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in-charge, designated representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for leaving the prior employment. Respondent shall sign and return to the Board a written consent authorizing the Board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the Board or its designee, concerning respondent's work status, performance, and monitoring. Failure to comply

with the requirements or deadlines of this condition shall be considered a violation of probation.

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of his employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 7255, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the Board in writing within 15 days of the change acknowledging that he or she has read this decision and the terms and conditions imposed thereby.

If respondent works for or is employed by or through an employment service, respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board of this decision in case number 7255 and the terms and conditions imposed thereby in advance of respondent commencing work at such licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment by or through an employment service, respondent shall cause the person(s) described in (a), (b), and (c) above at the

employment service to report to the Board in writing acknowledging that he or she has read this decision, and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgments 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, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

**7. Notification of Change(s) in Name, Address(es), or Phone Number(s).** Respondent shall further notify the Board in writing within 10 days of any change in name, residence address, mailing address, e-mail address or phone number. Failure to timely notify the Board of any change in employer, name, address, or phone number shall be considered a violation of probation.

**8. Restrictions on Supervision and Oversight of Licensed Facilities.** During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge, designated representative-in-charge, responsible manager or other compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

**9. Reimbursement of Board Costs.** As a condition precedent to successful completion of probation, respondent shall pay to the Board its costs of prosecution in

the amount of \$5,000. 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 year prior to the end date of probation.

There shall be no deviation from the installment payment schedule set forth by the Board absent prior written approval by the Board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

10. **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.

11. **Status of License.** Respondent shall, at all times while on probation, maintain an active, current license with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current pharmacist license shall be considered a violation of probation.

If respondent's pharmacist 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.

12. **License Surrender While on Probation/Suspension.** Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may relinquish his license, including any indicia of licensure issued by the Board, along with a request to surrender the license. The Board or its designee shall

have the discretion whether to accept the 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 his pocket and/or wall license, including any indicia of licensure not previously provided to the Board within 10 days of notification by the Board that the surrender is accepted if not already provided. Respondent may not reapply for any license from the Board for three 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, including any outstanding costs.

13. **Practice Requirement—Extension of Probation.** Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the Board or its designee.

If respondent does not practice as a pharmacist in California for the minimum number of hours in any calendar month, for any reason (including vacation), respondent shall notify the Board in writing within 10 days of the conclusion of that calendar month. This notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which respondent will resume practice at the required level.

Respondent shall further notify the Board in writing within 10 days following the next calendar month during which respondent practices as a pharmacist in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to be extended pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 36 months. The Board or its designee may post a notice of the extended probation period on its website.

14. **Pharmacists Recovery Program (PRP).** By no later than 10 days after the effective date of this decision, respondent shall have completed all of the following: contacted the Pharmacists Recovery Program (PRP) for evaluation; enrolled in the PRP; completed, signed, and returned the treatment contract as well as any addendums required or suggested by the PRP; successfully completed registration for any drug or alcohol testing mandated by the treatment contract and/or by enrollment in the PRP; and begun compliance with the drug or alcohol testing protocol(s). Respondent shall successfully participate in the PRP and complete the treatment contract and any addendums required or suggested by the PRP. The costs for PRP participation shall be borne by the respondent.

If respondent is currently enrolled in the PRP, said participation is now mandatory and as of the effective date of this decision is no longer considered a self-referral under Business and Professions Code section 4362 (a)(2). Respondent shall successfully participate in and complete his current contract and any subsequent addendums with the PRP.

Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely paid to the PRP shall constitute a violation of probation. The Board will collect unpaid administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

Any of the following shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation:

- Failure to contact, complete enrollment, and execute and return the treatment contract with the PRP, including any addendum(s), within 10 days of the effective date of the decision as directed by the PRP;
- Failure to complete registration for any drug or alcohol testing mandated by the treatment contract and/or by the PRP, and begin compliance with the testing protocol(s), within 10 days of the effective date of the decision as directed by the PRP;
- Failure to comply with testing protocols regarding daily check-in and/or failure to complete a mandated test as directed by the PRP;
- Any report from the PRP of material non-compliance with the terms and conditions of the treatment contract and/or any addendum(s); or
- Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk.

Respondent may not resume the practice of pharmacy until notified by the Board in writing.

Probation shall be automatically extended until respondent successfully completes the PRP. The Board will provide notice of any such suspension or extension of probation.

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 as a pharmacist 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.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist. 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.

15. **Drug and Alcohol Testing.** Respondent, at his 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 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 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 pharmacist until notified by the Board in writing that he 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 him 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 pharmacist. 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.

16. **Notification of Departure.** Prior to leaving the probationary geographic area designated by the Board or its designee for a period greater than 24 hours,

respondent shall notify the Board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

17. **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 he 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.

18. **Attend Substance Abuse Recovery Relapse Prevention and Support Groups.** Within 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.

Where respondent is enrolled in the PRP, participation as required in a recovery group meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any deviation from participation requirements for the PRP-approved group shall be considered a violation of probation.

19. **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.

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.

//

//

//

20. **Completion of Probation.** Upon written notice by the Board or its designee indicating successful completion of probation, respondent's license will be fully restored.

DATE: January 12, 2023

  
Sean Gavin (Jan 12, 2023 15:52 PST)

SEAN GAVIN

Administrative Law Judge

Office of Administrative Hearings

1 ROB BONTA  
Attorney General of California  
2 KAREN R. DENVIR  
Supervising Deputy Attorney General  
3 KATELYN E. DOCHERTY  
Deputy Attorney General  
4 State Bar No. 322028  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-6277  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 7255

13 **DANIEL ROBERT SANDY**  
14 **P.O. Box 993211**  
**Redding, CA 96099-2503**

**ACCUSATION**

15 **Pharmacist License No. RPH 48568**

16 Respondent.  
17

18  
19  
20  
21 **PARTIES**

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

25 2. On or about March 15, 1996, the Board issued Pharmacist License Number RPH  
26 48568 to Daniel Robert Sandy (Respondent). The Pharmacist License was in full force and effect  
27 at all times relevant to the charges brought herein and will expire on October 31, 2023, unless  
28 renewed.

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

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

7           5.     Code section 4300 states, in pertinent part:

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

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

12                   (1) Suspending judgment.

13                   (2) Placing him or her upon probation.

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

15                   (4) Revoking his or her license.

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

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

23           6.     Code section 4300.1, states:

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

///

///

///

///



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

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.

## COST RECOVERY

**FIRST CAUSE FOR DISCIPLINE**

9. Respondent is subject to disciplinary action under Code section 4301, subdivision (h), in that he administered to himself or otherwise used alcohol to an extent or in a manner as to be dangerous or injurious to herself and others. The circumstances are as follows.

10. On or about December 10, 2020, officers with the Redding Police Department responded to the collision of a vehicle with parked vehicle in the vicinity of 4045 Oro Street in Redding, California. Upon arrival, the officer observed a Dodge truck with moderate front-end damage, and a parked vehicle with moderate damage to the front end. The driver of the truck was identified as Respondent, and he immediately made spontaneous statements to the officers admitting that he was drunk and shouldn't have been driving. Respondent further informed the officer that he had consumed four separate shots (or 4 ounces) of Kirkland-brand vodka before

1 driving his vehicle. The officer observed that Respondent had issues maintaining his balance, and  
2 his gait was staggered and unsteady. Respondent was unable to successfully complete subsequent  
3 field sobriety testing and was arrested for driving under the influence. Respondent's blood  
4 alcohol content was determined to be 0.224%.

5 **PRAYER**

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

8 1. Revoking or suspending Pharmacist License Number RPH 48568, issued to Daniel  
9 Robert Sandy;

10 2. Ordering Daniel Robert Sandy to pay the Board of Pharmacy the reasonable costs of  
11 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
12 125.3; and,

13 3. Taking such other and further action as deemed necessary and proper.  
14  
15

16 DATED: 3/24/2022

Signature on File

17 ANNE SODERGREN  
18 Executive Officer  
19 Board of Pharmacy  
20 Department of Consumer Affairs  
21 State of California  
22 *Complainant*

23 SA2022300851  
24 35970321.docx  
25  
26  
27  
28