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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 **ASHISH HIMMAT OZA LANEY**
14 **8240 Haseltine Green**
Buena Park, CA 90621

15 **Pharmacy Technician Registration**
16 **No. TCH 182528**

17 Respondent.
18

Case No. 7277

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

19
20 **FINDINGS OF FACT**

21 1. On or about August 4, 2022, Complainant Anne Sodergren, in her official capacity as
22 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Complainant),
23 filed Accusation No. 7277 against Ashish Himmat Oza Laney (Respondent) before the Board of
24 Pharmacy. (Accusation attached as Exhibit A.)

25 2. On or about October 5, 2021, the Board of Pharmacy (Board) issued Pharmacy
26 Technician Registration No. TCH 182528 to Respondent. The Pharmacy Technician Registration
27 was in full force and effect at all times relevant to the charges brought in Accusation No. 7277
28 and will expire on September 30, 2023, unless renewed.

1 3. On or about August 11, 2022, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 7277, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is: 8240 Haseltine Green, Buena Park, CA 90621.

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

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

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

15 6. The Board takes official notice of its records and the fact that Respondent failed to
16 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
17 waived her right to a hearing on the merits of Accusation No. 7277.

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

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

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
26 finds that the charges and allegations in Accusation No. 7277, are separately and severally, found
27 to be true and correct by clear and convincing evidence.

28 9. The Board finds that the actual costs for Investigation and Enforcement are \$7,253.75
as of September 13, 2022.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Ashish Himmat Oza Laney has subjected his Pharmacy Technician Registration No. License No. TCH 182528 to discipline.

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

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

a. Respondent has subjected his pharmacy technician registration to disciplinary action under Code sections 490 and 4301, subdivision (l), in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered pharmacy technician. Namely, on October 13, 2021, in a criminal proceeding entitled *The People of the State of California vs. Ashish Himmat Oza Laney*, in Orange County Superior Court, Case Number 19NF3410, Respondent was convicted on his plea of guilty of violating Vehicle Code sections 23153, subdivision (a), driving while under the influence of alcohol causing bodily injury, a felony and Vehicle Code section 23153, subdivision (b), driving with a blood alcohol concentration of 0.08 percent or more causing bodily injury, a felony.

b. Respondent has subjected his pharmacy technician registration to disciplinary action under Code sections 490 and 4301, subdivision (l), in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered pharmacy technician. Namely, on October 13, 2021, in a criminal proceeding entitled *The People of the State of California vs. Ashish Himmat Oza Laney*, in Orange County Superior Court, Case Number 21HM04521, Respondent was convicted on his plea of guilty of violating Vehicle Code section 12500(a), driving a motor vehicle without a valid driver's license, a misdemeanor, on February 24, 2021.

c. Respondent has subjected his pharmacy technician registration to disciplinary action under Code section 4301, subdivision (h), in that he used drugs and alcoholic beverages to the extent or in a manner as to be dangerous or injurious to himself, to a person holding a license

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1 under this chapter, or to any other person, or to the public, or to the extent that his use impaired
2 his ability to conduct with safety to the public the practice authorized by his license.

3 d. Respondent has subjected his pharmacy technician registration to disciplinary action
4 under Code section 4301, subdivision (k), in that he was convicted of more than one felony
5 involving the use, consumption or self-administration of alcoholic beverages.

6 e. Respondent has subjected his pharmacy technician registration to disciplinary action
7 under Code section 4301 for unprofessional conduct because he engaged in the aforementioned
8 activities.

9 **ORDER**

10 IT IS SO ORDERED that Pharmacy Technician Registration No. License No. TCH
11 182528, issued to Respondent Ashish Himmat Oza Laney, is revoked.

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

16 This Decision shall become effective at 5:00 p.m. on January 4, 2023.

17 It is so ORDERED on December 5, 2022.

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19 _____
20 Seung W. Oh, Pharm.D.
21 Board President
22 FOR THE BOARD OF PHARMACY
23 DEPARTMENT OF CONSUMER AFFAIRS

24 83599144.DOCX
25 DOJ Matter ID:SD2022800745

26 Attachment:
27 Exhibit A: Accusation
28

Exhibit A

Accusation

1 ROB BONTA
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Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 7277

13 **ASHISH HIMMAT OZA LANEY**
14 **8240 Haseltine Green**
Buena Park, CA 90621

ACCUSATION

15 **Pharmacy Technician Registration**
16 **No. TCH 182528**

Respondent.

18
19 **PARTIES**

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

22 2. On or about October 5, 2021, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 182528 to Ashish Himmat Oza Laney (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on September 30, 2023, unless renewed.

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JURISDICTION

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

4. Code section 4300, subdivision (a), states, "Every license issued may be suspended or revoked."

5. Code section 4300.1 states:

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

STATUTORY PROVISIONS

6. Section 482 of the Code states in pertinent part:

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

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

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

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

(2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

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

8. Section 493 of the Code states:

(a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a

1 license, upon the ground that the applicant or the licensee has been convicted of a
2 crime substantially related to the qualifications, functions, and duties of the licensee
in question, the record of conviction of the crime shall be conclusive evidence of the
fact that the conviction occurred, but only of that fact.

3 (b) (1) Criteria for determining whether a crime is substantially related to the
4 qualifications, functions, or duties of the business or profession the board regulates
shall include all of the following:

5 (A) The nature and gravity of the offense.

6 (B) The number of years elapsed since the date of the offense.

7 (C) The nature and duties of the profession.

8 (2) A board shall not categorically bar an applicant based solely on the type of
9 conviction without considering evidence of rehabilitation.

10 (c) As used in this section, "license" includes "certificate," "permit,"
11 "authority," and "registration."

12 9. Code section 4301 states:

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

15 ...

16 (h) The administering to oneself, of any controlled substance, or the use of any
17 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
18 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.

19 ...

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

22 ...

23 (l) The conviction of a crime substantially related to the qualifications, functions,
24 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
25 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
26 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
27 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
28 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.

....

REGULATORY PROVISIONS

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

When considering the suspension or revocation of a facility or a personal license on the ground that the licensee has been convicted of a crime, the board will consider whether the licensee made a showing of rehabilitation and is presently fit for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board will consider the criteria in subdivisions (b)(1)(A) through (E). If the licensee has not completed the criminal sentence at issue without a violation of parole or probation or the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivisions (b)(1)(A) through (E), the board will apply the following criteria in evaluating the licensee's rehabilitation:

(1) Nature and gravity of the act(s) or offenses.

(2) Total criminal record.

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

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

(5) The criteria in subdivisions (b)(1)(A) through (E), as applicable.

(6) Evidence, if any, of rehabilitation submitted by the licensee, including as provided in the board's Disciplinary Guidelines, identified in section 1760.

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

(a) For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions or duties of the practice, profession, or occupation that may be performed under the license type sought or held if to a substantial degree it evidences present or potential unfitness of

an applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board will consider the following criteria:

- 1 (1) The nature and gravity of the offense;
- 2 (2) The number of years elapsed since the date of the offense; and
- 3 (3) The nature and duties of the practice, profession, or occupation that
4 may be performed under the license type sought or held.
- 5 (c) For purposes of subdivision (a), substantially related crimes, professional
6 misconduct, or acts shall include, but are not limited to, those which:
- 7 ...
- 8 (5) Involve a conviction for driving under the influence of drugs or
9 alcohol.

10 **COST RECOVERY**

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

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(October 13, 2021 Criminal Convictions for DUI Causing Bodily Injury and Driving with 19 BAC 0.8% or Higher Causing Bodily Injury on December 28, 2019)**

20 13. Respondent has subjected his pharmacy technician registration to disciplinary action
21 under Code sections 490 and 4301, subdivision (l), in that he was convicted of a crime that is
22 substantially related to the qualifications, functions, and duties of a registered pharmacy
23 technician. Namely, on October 13, 2021, in a criminal proceeding entitled *The People of the
24 State of California vs. Ashish Himmat Oza Laney*, in Orange County Superior Court, Case
25 Number 19NF3410, Respondent was convicted on his plea of guilty of violating Vehicle Code
26 sections 23153, subdivision (a), driving while under the influence of alcohol causing bodily
27 injury, a felony and Vehicle Code section 23153, subdivision (b), driving with a blood alcohol
28 concentration of 0.08 percent or more causing bodily injury, a felony. Respondent also admitted
to previously being convicted of violating Vehicle Code section 23103.5, a wet reckless. The

1 Court sentenced Respondent to 180 days in the Orange County jail, but stayed the incarceration
2 pending Respondent's successful use of a continuous alcohol monitoring system (SCRAM) and
3 ordered Respondent to complete community service, to attend and complete an 18-month
4 Multiple Offender Alcohol Program and to pay all applicable fines and restitution.

5 14. The facts that led to the conviction are as follows: on December 27, 2019, at
6 approximately 11:15 p.m., Respondent hit another vehicle so forcefully that the vehicle
7 overturned in Fullerton, California. The driver of the overturned vehicle sustained injuries from
8 the traffic collision and was transported from the scene to a hospital. Officers responding to the
9 scene asked Respondent if he had consumed alcohol, to which Respondent replied no.

10 15. While speaking with Respondent, Irvine Police Department officers observed that
11 Respondent's eyes were bloodshot and watery and that a strong odor of alcohol was emanating
12 from him. Consequently, the officers administered a field sobriety test which Respondent failed.
13 Since the officers suspected that Respondent was attempting to delay further testing of his blood
14 alcohol concentration, they sought and obtained a search warrant for a blood sample from
15 Respondent. At approximately 2:49 a.m., Respondent's blood was drawn and his blood alcohol
16 concentration was measured at 0.127 and 0.128 percent and he tested positive for the presence of
17 THC in his system. Respondent subsequently admitted that his blood alcohol concentration on
18 the night of his arrest was 0.12 percent.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(October 13, 2021 Conviction for Driving**
21 **Without Valid Driver's License on February 24, 2021)**

22 16. Respondent has subjected his pharmacy technician registration to disciplinary
23 action under Code sections 490 and 4301, subdivision (l), in that he was convicted of a crime that
24 is substantially related to the qualifications, functions, and duties of a registered pharmacy
25 technician. On October 13, 2021, in a criminal proceeding entitled *The People of the State of*
26 *California vs. Ashish Himmat Oza Laney*, in Orange County Superior Court, Case Number
27 21HM04521, Respondent was convicted on his plea of guilty of violating Vehicle Code
28 section 12500(a), driving a motor vehicle without a valid driver's license, a misdemeanor, on

February 24, 2021. The facts that lead to the conviction are that Respondent operated a motorized scooter on a parkway with a 45 miles per hour limit with a suspended driver's license.

THIRD CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol and Drugs on December 28, 2019)

17. Respondent has subjected his pharmacy technician registration to disciplinary action under Code section 4301, subdivision (h), in that he used drugs and alcoholic beverages to the extent or in a manner as to be dangerous or injurious to himself, to a person holding a license under this chapter, or to any other person, or to the public, or to the extent that his use impaired his ability to conduct with safety to the public the practice authorized by his license, as set forth in paragraphs 14-15 above.

FOURTH CAUSE FOR DISCIPLINE

(Alcohol-Related Convictions on October 13, 2021)

18. Respondent has subjected his pharmacy technician registration to disciplinary action under Code section 4301, subdivision (k), in that he was convicted of more than one felony involving the use, consumption or self-administration of alcoholic beverages, as set forth in paragraph 13 above.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

19. Respondent has subjected his pharmacy technician registration to disciplinary action under Code section 4301 for unprofessional conduct because he engaged in the activities described in paragraphs 13-16 above.

DISCIPLINARY CONSIDERATIONS

20. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that:

a. On September 26, 2017, Respondent hit a parked vehicle while under the influence of alcohol and then left the scene of the accident. Buena Park police officers who investigated the accident observed that Respondent had bloodshot and watery eyes, slurred speech, an unsteady gait and the smell of alcohol emanating from him. Respondent underwent a breathalyzer test

1 which measured his blood alcohol concentration at 0.15 percent. The officer suspended
2 Respondent's driver's license and informed Respondent of his suspension. Criminal charges for
3 violating Vehicle Code section 23152 (a), driving under the influence of alcohol and (b), driving
4 with a blood alcohol content of 0.08% or more were filed against him, but on November 1, 2018,
5 the criminal court dismissed the case, and ordered that restitution be paid in connection with the
6 case described below.

7 b. On October 12, 2017, California Highway Patrol officers were dispatched to
8 investigate a vehicle stopped at an awkward angle on a northbound on-ramp to the 55 freeway.
9 Officers made contact with Respondent and noted that the hood of his car was warm. Respondent
10 told the officers that he had been at the scene for approximately seven minutes and that he had
11 been driving the vehicle. The officers smelled the odor of an alcoholic beverage emanating from
12 Respondent and observed that Respondent was unsteady, his eyes were bloodshot and his speech
13 was slurred. Respondent failed field sobriety tests and was arrested for driving under the
14 influence of alcohol. Respondent subsequently admitted that on October 12, 2017, he "willfully
15 and unlawfully drove a vehicle upon a highway with reckless and wanton disregard for human
16 life while having alcohol in [his] system." On November 1, 2018, Respondent was convicted of
17 violating Vehicle Code section 23103.5(a), wet reckless, a misdemeanor, in Orange County
18 Superior Court Case No. 17CM11661. He was placed on probation for three (3) years, ordered to
19 attend a three month First Offender Drug and Alcohol Program and victim impact counseling,
20 ordered to pay all applicable fees and fines, to drive only with a valid driver's license and to pay
21 any restitution to victims in the case referenced above.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Technician Registration Number No. 182528
26 issued to Ashish Himmat Oza Laney;

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28 ///

2. Ordering Ashish Himmat Oza Laney 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: 8/4/2022

Signature on File

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

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