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

12 In the Matter of the Accusation Against:

Case No. 7281

13 **JOSE DEJESUS GONZALEZ**

DEFAULT DECISION AND ORDER

14 3263 N. Lincoln Ave
Altadena, CA 91001

[Gov. Code, §11520]

15 Pharmacy Technician Registration No. TCH
145518

16
17 Respondent.
18

19
20 **FINDINGS OF FACT**

21 1. On or about May 4, 2022, Complainant Anne Sodergren, in her official capacity as
22 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
23 Accusation No. 7281 against Jose Dejesus Gonzalez (Respondent) before the Board of Pharmacy.
24 (Accusation attached as Exhibit A.)

25 2. On or about January 14, 2015, the Board of Pharmacy (Board) issued Pharmacy
26 Technician Registration No. TCH 145518 to Respondent. The Pharmacy Technician Registration
27 was in full force and effect at all times relevant to the charges brought in Accusation No. 7281
28 and will expire on April 30, 2024, unless renewed.

1 3. On or about May 10, 2022, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 7281, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is: 3263 N. Lincoln Ave, Altadena, CA 91001.

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 him of the Accusation, and therefore
17 waived his right to a hearing on the merits of Accusation No. 7281.

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. 7281, 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 \$1,347.50
as of July 20, 2022.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Jose Dejesus Gonzalez has subjected his Pharmacy Technician Registration No. TCH 145518 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. Business and Professions Code sections 4301, subdivision (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician. Specifically, on or about June 25, 2021, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the State of California v. Jose Dejesus Gonzalez* (Super. Ct. L.A., 2021, No. 0WC05670).

b. Business and Professions Code section 4301, subdivision (h), on the grounds of unprofessional conduct in that Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to himself, any person, or the public on September 28, 2020.

c. Business and Professions Code section 4301, subdivision (h), on the grounds of unprofessional conduct in that Respondent used and/or was under the influence of a controlled substance on January 25, 2020, when he tested positive for cocaine metabolite.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 145518, issued to Respondent Jose Dejesus Gonzalez, is revoked.

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

This Decision shall become effective at 5:00 p.m. on September 28, 2022.

It is so ORDERED on August 29, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

65300418.DOCX
DOJ Matter ID:LA2022601068

Attachment:
Exhibit A: Accusation

By



Seung W. Oh, Pharm. D
Board President

Exhibit A

Accusation

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2 KIM KASRELIOVICH
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Supervising Deputy Attorney General
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7281

13 **JOSE DEJESUS GONZALEZ**

ACCUSATION

14 3263 N. Lincoln Ave
Altadena, CA 91001

15 Pharmacy Technician Registration No. TCH
145518

16 Respondent.
17

18 **PARTIES**

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

21 2. On or about January 14, 2015, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 145518 to Jose Dejesus Gonzalez (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on April 30, 2022, unless renewed.

25 **JURISDICTION**

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

28 4. Section 4300, subdivision (a), states that “[e]very license issued may be suspended or

1 revoked.”

2 5. Section 4300.1 states:

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

9 **STATUTORY PROVISIONS**

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

13 7. Section 4301 states, in pertinent part:

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

17

18 (h) The administering to oneself, of any controlled substance, or the use of any
19 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
20 dangerous or injurious to oneself, to a person holding a license under this chapter, or
21 to any other person or to the public, or to the extent that the use impairs the ability of
22 the person to conduct with safety to the public the practice authorized by the license.

23

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

1 **REGULATORY PROVISIONS**

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

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

7 **COST RECOVERY**

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

12 10. **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

13 “Cocaine, and any cocaine base,” is a narcotic drug according to Health and Safety Code
14 section 11019, subdivision (e). It is a Schedule I controlled substance, as designated in Health
15 and Safety Code section 11054, subdivision (f)(1), and a Schedule II controlled substance, as
16 designated in Health and Safety Code section 11055, subdivision (b)(6). It is categorized as a
17 dangerous drug according to Business and Professions Code section 4022.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Conviction of a Substantially Related Crime)**

20 11. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
21 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
22 Respondent was convicted of a crime substantially related to the qualifications, functions or
23 duties of a pharmacy technician. Specifically, on or about June 25, 2021, after pleading nolo
24 contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code
25 section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his
26 blood] in the criminal proceeding entitled *The People of the State of California v. Jose Dejesus*
27 *Gonzalez* (Super. Ct. L.A., 2021, No. 0WC05670). The court sentenced Respondent to serve one
28 day in jail, enrollment and completion of a 3-month first offender DUI program, and placed him

1 on 3 years' probation, with terms and conditions. The circumstances surrounding the conviction
2 are that on or about September 28, 2020, officers conducted a welfare check after observing
3 Respondent's vehicle parked on the side of the road. While speaking to Respondent, the officer
4 could smell the odor of alcohol emitting from his breath and person and observed him to have red
5 watery eyes and slurred speech. Respondent refused to submit to field sobriety tests despite being
6 asked and a records check revealed that his driver's license was suspended. Respondent was
7 subsequently placed under arrest for driving under the influence of alcohol. During the booking
8 procedure, Respondent provided a breath sample that revealed a breath alcohol content level of
9 011% on the first and second readings.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol and/or Controlled Substance/Dangerous Drug)**

12 12. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
13 the grounds of unprofessional conduct, as follows:

14 a. On or about September 28, 2020, Respondent used alcoholic beverages to an extent
15 or in a manner dangerous or injurious to herself, any person, or the public. Complainant refers to,
16 and by this reference incorporates, the allegations set forth above in paragraph 11, as though fully
17 set forth herein.

18 b. On or about January 25, 2020, Respondent was approached by officers at a DUI
19 checkpoint. While speaking to Respondent, the officer observed signs of impairment.
20 Respondent was asked to submit to a series of field sobriety tests, which he was unable to
21 perform as indicated. When asked, Respondent denied drinking or smoking cannabis but did
22 state he takes effexor for depression. Respondent's reactions were unbalanced, rigid and he
23 displayed eyelid and body tremors. The officer formed the opinion that Respondent was under
24 the influence of an intoxicant and unable to safely operate a motor vehicle and was placed under
25 arrest for violating Vehicle Code section 2312, subdivision (f) [driving while under the influence
26 of drugs.] During the booking procedure, Respondent provided a blood sample that tested
27 positive for cocaine metabolite.

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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 145518, issued to Jose Dejesus Gonzalez;
2. Ordering Jose Dejesus Gonzalez 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: 5/4/2022

Signature on File

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

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