

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

In the Matter of the Accusation Against:

BRYAN HAN WONG,

Pharmacy Technician Registration No. 176120,

Respondent.

Agency Case No. 7372

OAH No. 2022110269

DECISION AND ORDER

The attached Proposed Decision 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 April 19, 2023.

It is so ORDERED on March 20, 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 First Amended Accusation Against:

BRYAN HAN WONG, Respondent.

Pharmacy Technician Registration No. TCH 176120

Agency Case No. 7372

OAH No. 2022110269

PROPOSED DECISION

Ji-Lan Zang, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on January 10, 2023, in Los Angeles, California.

William D. Gardner, Deputy Attorney General, represented Anne Sodergren (complainant), Executive Officer, Board of Pharmacy (Board), Department of Consumer Affairs.

Respondent Bryan Han Wong represented himself.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on January 10, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. On February 18, 2020, the Board issued Pharmacy Technician Registration No. TCH 176120 to respondent. The license is scheduled to expire on August 31, 2023, unless renewed.

2. On January 4, 2023, complainant filed the First Amended Accusation in her official capacity. Respondent timely filed a Notice of Defense and a Request for Hearing. This hearing ensued.

Criminal Conviction

3. On November 21, 2022, respondent was convicted on his plea of nolo contendere to violating Penal Code section 25850, subdivision (a), carrying a loaded firearm on one's person or in a vehicle, a misdemeanor. (Superior Court of California, County of Los Angeles, case number BA499241.)

4. For this conviction, respondent was placed on summary probation for one year under certain terms and conditions, including incarceration for four days in jail with credit for four days in actual custody; payment of \$220 in fines, fees, and restitution by November 21, 2023; performance of 10 days of community labor; and an order prohibiting owning or possessing any dangerous or deadly weapons.

Respondent has not paid all the fines, fees, and restitution. On November 21, 2022, respondent paid the fees to Assistance League of Los Angeles for him to perform his community labor, but he has yet to perform the 10 days of court-ordered volunteer work. Respondent is currently on summary criminal probation, which is expected to terminate in November 2023.

5. The facts and circumstances surrounding this criminal conviction, as established by the arrest report, are as follows: On June 1, 2021, at approximately 1:30 a.m., the arresting officers stopped respondent at an intersection near downtown Los Angeles for speeding. When the arresting officers questioned respondent about whether he had a gun, respondent replied that he had a gun on him. The officers then seized a Glock style 9 MM semi-automatic firearm, which was concealed inside the front of respondent's waistband. The firearm was loaded with a magazine and contained five live rounds of 9 MM ballpoint ammunition. In addition, the gun did not have any serial number, as it was a privately made firearm commonly referred to as a "ghost gun." The officers arrested respondent for carrying a concealed firearm.

Factors in Aggravation

6. On November 5, 2018, respondent was convicted on his plea of nolo contendere to violating Penal Code section 490.2, subdivision (a), theft of money, labor, or personal property under \$950. (Superior Court of California, County of Los Angeles, case number 8BP03393.) Respondent was placed on summary probation for a period of two years under terms and conditions including performance of 59 hours of community service and payment of \$1,080 in fines, fees, and restitution. Respondent completed his summary probation and all other terms for this conviction. The facts and circumstances of this conviction are that respondent stole three bottles of beer from a local gas station.

Expert Testimony

7. Hilda Nip, Inspector for the Board, testified at the hearing on behalf of complainant. Inspector Nip has been a licensed pharmacist since 1993, and she

practiced as a Pharmacist-In-Charge from 1997 to 2008, after which she began her career as an inspector for the Board.

8. Inspector Nip explained the functions of a pharmacy technician include assisting the pharmacist, counting and labeling medication, dealing with the public, and maintaining pharmacy records. Through their work, pharmacy technicians have access to drugs, including controlled substances, and to confidential information, including patient financial and medical information. Inspector Nip testified that the Board expects its licensees to respect all laws and regulations because their work duties directly affect public health. In this case, respondent possessed a loaded ghost gun, a self-made, assembled gun with no serial number. In Inspector Nip's opinion, carrying such a weapon endangers the public and constitutes a major public safety issue. Inspector Nip also testified that pharmacy technicians need to exercise sound judgment to perform their jobs effectively. According to Inspector Nip, respondent's criminal conviction demonstrates a disregard for the law and a lack of judgment.

Respondent's Evidence

9. Respondent is 22 years old. He obtained his pharmacy technician certification from UEI college. After becoming a pharmacy technician, respondent initially worked for a recruiting agency, which assigned him to work at retail and hospital pharmacies on short assignments. Subsequently, respondent worked for several private pharmacies, including Golden Elite Pharmacy and 986 Pharmacy in the City of Monterey Park. Respondent is currently employed at Skilled Nursing Pharmacy, where he works as a data entry technician.

10. Regarding his criminal conviction for carrying an unregistered loaded firearm, respondent admitted he was wrong to have had an unregistered gun on his

person, but he insisted he was not intending to “do anything bad” with it. Respondent claimed he was going to Santa Monica Beach on the night of June 1, 2021, and he was carrying the gun for personal protection. Respondent acknowledged that his actions were unsafe and he “own[ed] up to [his] mistake.” Regarding his conviction for theft, respondent explained he was 18 years old when he stole three bottles of beer from the local gas station. At that time, he was hanging out with the wrong crowd who urged him to steal, and he no longer has any contact with those friends. Respondent testified he understands the Board’s concerns about his two criminal convictions, but he has no other criminal history and no history of Board discipline.

11. Respondent submitted two letters attesting to his character. In an undated letter, respondent’s co-worker, John Tojong, described respondent as “kind, respectful, and helpful to all in the workplace.” (Ex. A.) In another undated letter, respondent’s cousin, Irene Quach, recounted that respondent hung out with the wrong friends in 2018, but he is now a better person who helps his family. (Ex. B.)

12. Respondent intends to pay the court-ordered fines, fees, and restitution in March 2023 at his upcoming criminal court hearing in the gun possession case. . He also intends to begin performing his community labor requirement by the end of January 2023. Respondent takes pride in his work as a pharmacy technician and wishes to maintain his licensure with the Board.

Cost Recovery

13. Complainant submitted evidence of the costs of investigation and enforcement of this matter, summarized as follows: 19.75 hours of legal services at rates ranging from \$205 to \$220 per hour for total costs claimed of \$4,195. (Ex. 3.)

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14. Respondent's monthly income is approximately \$2,800. His monthly expenses include \$700 for rent, \$588 for a car loan, and \$358 for car insurance.

LEGAL CONCLUSIONS

Standard and Burden of Proof

1. The standard of proof for the Board to prevail on the Accusation is clear and convincing evidence to a reasonable certainty. (See *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487.)

Applicable Law

2. Business and Professions Code section 4301, in pertinent part, provides:

The Board shall take action against any holder of a license who is guilty of unprofessional conduct. . . . Unprofessional conduct shall include, but is not limited to, any of the following:

[¶] . . . [¶]

(/) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee.

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Substantial Relationship

3. California Code of Regulations, title 16, section 1770 provides that “a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.”

4. Respondent’s conviction for carrying a loaded unregistered firearm is substantially related to the qualifications, functions, and duties of a pharmacy technician. In *People v. Garrett* (1987) 195 Cal.App.3d 795, 800 (*Garrett*), the Court of Appeals held that a federal statute prohibiting any person to possess an unregistered firearm was a crime of moral turpitude because the weapons requiring registration are “insidious instruments normally used for criminal purposes.” Here, Penal Code section 25850 prohibits the carrying of a loaded firearm in a public place. The gun that respondent carried was a “ghost gun,” one that is unregistered and lacks a serial number. As *Garrett* found, the possession of such an unregistered firearm in public is “not an innocent act in itself but an evil act which exposes others to danger.” (*Garrett, supra*, 195 Cal.App.3d at p. 800.) Respondent’s conviction for carrying a loaded firearm evinced a serious lapse in judgment. As Inspector Nip’s testimony showed, sound judgment is an essential characteristic of a pharmacy technician because he has unrestricted access to confidential patient information and controlled substances. By carrying an unregistered loaded firearm in public, respondent also demonstrated a disregard for his own health and safety and that of the public at large.

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Causes for Discipline

5. Cause exists to suspend or revoke respondent's pharmacy technician license pursuant to Business and Professions Code sections 490 and 4301, subdivision (A), in conjunction with California Code of Regulations, title 16, section 1770, in that respondent was convicted of a crime which is substantially related to the qualifications, functions, or duties of a pharmacy technician. (Factual Findings 3-5.)

6. Cause exists to suspend or revoke respondent's pharmacy technician license pursuant to Business and Professions Code section 4301, in that respondent engaged in unprofessional conduct. (Factual Findings 3-5.)

Degree of Discipline

7. The Board's Disciplinary Guidelines (Rev. 2/2017) (Guidelines) describe categories of violations and recommended penalties. Under the Guidelines, the violations under consideration in this case constitute Category II level violations, in that respondent suffered a criminal conviction not involving alcohol. (Guidelines, p. 7.) The minimum recommended penalty for a Category II violation is three years of probation; the maximum recommended penalty is revocation. (*Ibid.*)

8. The Guidelines specify that, in determining whether the minimum, maximum or an intermediate penalty is to be imposed in a given case, the following factors should be considered: (1) actual or potential harm to the public; (2) actual or potential harm to any consumer; (3) prior disciplinary record; (4) prior warnings; (5) number and or variety of current violations; (6) the nature and severity of the act(s) or offense(s), or crime(s); (7) aggravating evidence; (8) mitigating evidence; (9) rehabilitation evidence; (10) compliance with terms of any criminal sentence, parole, or probation; (11) overall criminal record; (12) if applicable, evidence of dismissal

proceedings pursuant to section 1203.4 of the Penal Code; (13) the time that has elapsed since commission of the act(s) or offenses(s); (14) whether the conduct was intentional or negligent; (15) financial benefit to the respondent from the misconduct; (16) license history of other licenses held by respondent; and (17) Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (Uniform Standards). (Guidelines, p. 3.)

9. Applying the criteria to the case at hand, respondent's offense for carrying a loaded firearm is a moderately serious crime. Even though respondent's conviction did not cause actual harm to any consumer, it had the potential to cause harm to the public at large. Additionally, respondent's arrest in 2021 and his conviction in 2022 are recent, and his explanation that he was going to the beach at 1:30 a.m. is not credible. Due to his criminal conviction, respondent will remain on summary criminal probation until November 2023, and there is no evidence of any expungement proceedings pursuant to Penal Code section 1203.4. Respondent is being disciplined for a single criminal conviction, and his conduct did not involve professional negligence or incompetence. In aggravation, however, respondent was previously convicted of theft.

10. Respondent did present some evidence of his rehabilitation. Although respondent is currently on summary criminal probation, he has paid the fees to begin his community labor. Respondent also acknowledged his mistake, and he was remorseful about carrying a dangerous loaded firearm. Respondent's prior criminal conviction was minor, involving the theft of three bottles of beer, and it occurred while he was 18 years old. Respondent has no other criminal history, and he has no history of discipline with the Board. Under these circumstances, the public will be adequately protected by placing respondent on three years of probation.

Cost Recovery

11. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the Supreme Court rejected a constitutional challenge to a cost provision similar to Business and Professions Code section 125.3. In so doing, however, the Court directed the administrative law judge and the agency to evaluate several factors to ensure that the cost provision did not deter individuals from exercising their right to a hearing. Thus, an agency must not assess the full costs where it would unfairly penalize the respondent who has committed some misconduct, but who has used the hearing process to obtain the dismissal of some charges or a reduction in the severity of the penalty; the agency must consider a respondent's subjective good faith belief in the merits of his or her position and whether the respondent has raised a colorable challenge; the agency must consider a respondent's ability to pay; and the agency may not assess disproportionately large investigation and prosecution costs when it has conducted a large investigation to prove that a respondent engaged in relatively innocuous misconduct. (*Id.* at p. 45.)

12. In this case, complainant has assessed a disproportionately large amount in prosecution costs, given that complainant presented only documentary evidence and one witness's testimony at the hearing. Respondent's monthly income is approximately \$2,800, and he bears expenses including \$700 in rent. These circumstances warrant an additional 50 percent reduction in actual costs. Therefore, the reasonable costs of investigation and enforcement are \$2,097.

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ORDER

Pharmacy Technician Registration Number TCH 176120 issued to respondent Bryan Han Wong is revoked; however, the revocation is stayed and respondent is placed on probation for three years upon the following terms and conditions:

1. Obey All Laws. Respondent shall obey all state and federal laws and regulations. Respondent shall report any of the following occurrences to the Board, in writing, within seventy-two 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; or
- 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 any such occurrence shall be considered a violation of probation.

2. Report to the Board. Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in

person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

3. Interview with the Board. Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear at two 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 timely 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. Reporting of Employment and Notice to Employers. During the period of probation, respondent shall notify all present and prospective employers of the

decision in case number 7372 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within ten (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 names and telephone numbers of all of his direct supervisors, as well as any pharmacist-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 thirty (30) days of the effective date of this decision, and within fifteen (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 individuals have read the decision in case number 7372, 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 acknowledgments are timely submitted to the Board. In the event of a change in the persons serving the roles described in (a), (b), or

(c) during the term of probation, respondent shall cause the persons taking over the roles to report to the Board in writing within fifteen (15) days of the change acknowledging that he has read the decision in case number 7372, 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 the decision in case number 7372, 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 thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through an employment service, respondent shall cause the persons 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 the decision in case number 7372, and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that these acknowledgments are timely submitted to the Board.

Failure to timely notify present or prospective employer(s) or failure to cause the identified person(s) with that/those employer(s) to submit timely written 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 or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician license is a requirement

or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

6. Notification of Changes in Name, Addresses, or Phone Numbers.

Respondent shall further notify the Board in writing within ten (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.

7. Reimbursement of Board's Costs. As a condition precedent to successful completion of probation, respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$2,097. Respondent shall make said payments as follows:

There shall be no deviation from this schedule 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. The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to reimburse the Board its costs of investigation and prosecution.

Respondent shall make said payments according to a schedule approved by the Board or its designee, so long as full payment is completed no later than one (1) year prior to the end date of probation.

8. 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 deadlines as directed shall be considered a violation of probation.

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

If respondent's pharmacy technician license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

10. License Surrender While on Probation/Suspension. Following the effective date of this decision, should respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his pharmacy technician license to the Board for surrender. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the Board.

Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the Board for three 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.

11. Maintaining Certification. Respondent shall maintain an active, current certification as defined by Business and Professions Code section 4202, subdivision (a)(4), for the entire period of probation, and shall submit proof of re-certification or renewal of certification to the Board within ten (10) days of receipt. Failure to maintain active, current certification or to timely submit proof of same shall be considered a violation of probation.

12. Practice Requirement—Extension of Probation. Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 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 pharmacy technician 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 ten (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 ten (10) days following the next calendar month during which respondent practices as a pharmacy technician 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 thirty-six (36) months. The Board or its designee may post a notice of the extended probation period on its website.

13. Violation of Probation. If respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and the Board shall provide notice to respondent that 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. The Board or its designee may post a notice of the extended probation period on its website. 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. If a petition to revoke probation or an accusation is filed against respondent during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, 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.

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

DATE: 02/07/2023

Ji-Lan Zang

JI-LAN ZANG

Administrative Law Judge

Office of Administrative Hearings

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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. 7372

13 **BRYAN HAN WONG**

14 4428 Huddart Ave.
El Monte, CA 91731

FIRST AMENDED ACCUSATION

15 **Pharmacy Technician Registration No.**
16 **TCH 176120**

Respondent.

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19 **PARTIES**

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

23 2. On or about February 18, 2020, the Board issued Pharmacy Technician Registration
24 Number TCH 176120 to Bryan Han Wong (Respondent). The Pharmacy Technician Registration
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 August 31, 2023, unless renewed.

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JURISDICTION

3. This First Amended 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. Section 4300 of the Code provides, in pertinent part, that every license issued by the Board is subject to discipline including suspension or revocation.

5. Section 4300.1 of the Code 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 4301 of the Code states, in pertinent part:

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:

...

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

...

1 **REGULATORY PROVISIONS**

2 7. California Code of Regulations, title 16, section 1770(a) states:

3 For the purpose of denial, suspension, or revocation of a personal or facility
4 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
5 Business and Professions Code, a crime, professional misconduct, or act shall be
6 considered substantially related to the qualifications, functions or duties of the
7 practice, profession, or occupation that may be performed under the license type
8 sought or held if to a substantial degree it evidences present or potential unfitness of
9 an applicant or licensee to perform the functions authorized by the license in a
10 manner consistent with the public health, safety, or welfare.

8 **COST RECOVERY**

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

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Substantially-Related Criminal Conviction)**

17 9. Respondent is subject to disciplinary action under Code section 4301(l), in
18 conjunction with California Code of Regulations, title 16, section 1770(a), in that on November
19 21, 2022, in the criminal proceeding entitled *The People of the State of California vs. Bryan*
20 *Wong* (Super. Ct. Los Angeles County, 2022, No. BA499241) Respondent entered a plea of nolo
21 contendere and was convicted of violating Penal Code section 25850(a) (carrying a loaded
22 handgun on one's person or in a vehicle – not registered).

23 10. The circumstances surrounding Respondent's conviction are that on June 1, 2021, a
24 Los Angeles Police Department officer conducted a traffic stop involving Respondent. The
25 officer noticed that Respondent was nervous and asked Respondent if he had a gun. Respondent
26 admitted to having a gun on his person. The officer recovered a loaded semi-automatic firearm
27 from Respondent's waistband. Respondent did not have a permit to carry the gun, and the gun

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1 found in Respondent's possession was a so-called "ghost gun" in that it was untraceable because
2 it did not have a serial number.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct)**

5 11. Respondent is subject to disciplinary action under Code section 4301 in that
6 Respondent engaged in unprofessional conduct. Complainant refers to, and by this reference
7 incorporates, the allegations set forth above in paragraphs 9 and 10, inclusive, as though set forth
8 fully herein.

9 **DISCIPLINE CONSIDERATIONS**

10 12. To determine the degree of discipline, if any, to be imposed on Respondent,
11 Complainant alleges that on or about November 5, 2018, in a prior criminal proceeding titled *The*
12 *People of the State of California vs. Bryan Han Wong*, in Superior Court of California, County of
13 Los Angeles, Case No. 8PD03393, Respondent was convicted of violating Penal Code section
14 490.2(a) (theft money/labor/personal property under \$950), a misdemeanor. Respondent was
15 sentenced to serve one (1) day in jail, placed on probation for two (2) years with terms and
16 conditions, complete 19 hours of community service, and ordered to pay fines and fees. The
17 record of the criminal proceeding is final.

18 The circumstances surrounding the conviction are that on or about September 22, 2018, a
19 Pasadena Police Department officer was dispatched to a local gas station for a theft of beer bottles
20 involving Respondent. Based on the broadcasted description, the officer conducted a pedestrian
21 stop on Respondent who was walking. The officer noticed an unknown large bulge inside
22 Respondent's pants. Respondent admitted it was a beer bottle and took it out. Upon speaking to
23 Respondent, the officer noticed a strong odor of an alcoholic beverage emitting from his person,
24 unsteady balance, glossy eyes, and slurred speech. The reporting party positively identified
25 Respondent was the suspect who took three (3) beer bottles without purchasing them at the gas
26 station.

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28 ///

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 176120, issued to Bryan Han Wong;
2. Ordering Bryan Han Wong 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: 1/4/2023

Sodergren, Anne@DCA
Digitally signed by Sodergren, Anne@DCA
Date: 2023.01.04 12:25:49 -08'00'

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

LA2022603286