

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

In the Matter of the Accusation Against:

RYAN NARAG BALUYOT, Respondent

Pharmacy Technician Registration No. TCH 105509

Agency Case No. 7399

OAH No. 2023030777

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 November 9, 2023.

It is so ORDERED on October 10, 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
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In the Matter of the Accusation Against:

**RYAN NARAG¹ BALUYOT,
Pharmacy Technician Registration No. TCH 105509
Respondent.**

Agency Case No. 7399

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PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on August 15, 2023, by videoconference.

Deputy Attorney General Carter Ott represented complainant Anne Sodergren, Executive Officer of the Board of Pharmacy.

Respondent Ryan Narag Baluyot appeared representing himself.

¹ The accusation uses "Marag" as respondent's middle name. He confirmed at hearing that "Narag" is correct.

The matter was submitted for decision on August 15, 2023.

FACTUAL FINDINGS

1. The Board of Pharmacy issued Pharmacy Technician Registration No. TCH 105509 to respondent Ryan Narag Baluyot on August 30, 2010. At the time of this hearing, this registration was active and was scheduled to expire on October 31, 2023.

2. Acting in her official capacity as Executive Officer of the Board, complainant Anne Sodergren filed an accusation against respondent in January 2023. Complainant alleges that the Board should discipline respondent because he possessed and used cocaine² during 2021 and early 2022, including being under its influence in his pharmacy workplace on February 8, 2022. Respondent requested a hearing.

Professional Experience

3. Respondent began working part time in a Kaiser Permanente pharmacy in Napa in October 2010. He began working full time at this pharmacy in 2019.

4. On February 8, 2022, respondent's supervisors suspected because of respondent's behavior that he was under the influence of a drug while working in the pharmacy. They relieved him of his duties and asked him to give a urine sample for

² Cocaine is a stimulant drug that is a controlled substance (Bus. & Prof. Code, § 4021; Health & Saf. Code, § 11055, subd. (b)(6)) and a dangerous drug (Bus. & Prof. Code, § 4022; Health & Saf. Code, § 11158).

drug testing. He gave the sample, and the testing laboratory reported that it was "Positive" for "Cocaine," and "Negative" for several other drugs. Kaiser Permanente terminated respondent's employment in March 2022.

5. Respondent later worked in two other outpatient pharmacies. At the time of the hearing, he worked in a pharmacy at the Napa State Hospital.

Cocaine Use Disorder, Treatment, and Recovery

6. The evidence does not establish when respondent began using cocaine. For a few years, however, he used it regularly during his off-work time. He obtained this drug from acquaintances, but never by prescription.

7. In late 2021, respondent's then-fiancée, with whom he had a newborn child, warned him that she would leave him and take their child with her if he did not stop using cocaine. Respondent decided to seek treatment.

8. On January 5, 2022, respondent and his union shop steward met with his supervisors in the pharmacy. The shop steward explained on respondent's behalf that respondent had decided to seek substance abuse treatment through Kaiser's outpatient Chemical Dependency Recovery Program (CDRP). They asked respondent's supervisors to give respondent intermittent leave that would allow him to attend CDRP meetings and counseling sessions during the work day, and respondent's supervisors agreed.

9. Respondent's supervisors confirmed to Board investigator Hilda Nip in 2022 that they had believed respondent to be under the influence of a drug in the

pharmacy on February 8, 2022,³ but neither supervisor testified at the hearing. Respondent denies having used cocaine before or at work on February 8, 2022.

10. To support the allegation that respondent was under the influence of cocaine in his pharmacy workplace on February 8, 2022, complainant points to the urine test for which respondent gave a sample that day. Complainant presented no expert testimony to explain how this test works, however. In particular, no evidence explains whether the test measured a urine component that correlates simultaneously with intoxication, or one that indicates past use without necessarily indicating current intoxication. The urine test result itself is not clear and convincing non-hearsay evidence to establish that respondent was under the influence of cocaine while working in the pharmacy on February 8, 2022.

11. Respondent testified that he has not used cocaine since December 31, 2021. Complainant points again to the urine test result as evidence that this testimony is untrue. Even assuming the test measured a urine component that indicates past cocaine use, however, clear and convincing evidence does not establish how long after a person's last cocaine use this component may remain measurable.⁴ While suggestive,

³ They also told Nip that this occasion was the first and only occasion when they had suspected respondent of having been under the influence of a drug on duty, and that they had never suspected him of diverting any drugs from the pharmacy.

⁴ Nip referenced some publications she found in an Internet search that suggested a three-week detection window, but Nip is not an expert in bodily fluid testing for cocaine or any other substance.

the urine test result does not establish that respondent used cocaine between December 31, 2021, and February 8, 2022.

12. Regardless of precisely when respondent last used cocaine, he testified credibly at the hearing that he had maintained abstinence for at least 18 months. He noted that the three pharmacy technician positions he has held since losing his Kaiser position all required pre-employment drug screening.

13. Respondent has “cut ties completely” with the friends and family members with whom he formerly used cocaine. He now has a second child, and intends to remain abstinent to support his family and his career.

14. Respondent participated in the Kaiser CDRP for about six months, but had to leave the program in mid-2022 after losing his job (as described above in Finding 4). He has not participated in any professional treatment or peer support program since leaving the Kaiser CDRP. Respondent testified that he is willing to do so if the Board requires such activity as a condition for him to maintain his license.

Costs

15. Through August 7, 2023, the Board had incurred \$2,873.75 in costs for investigative staff services in this matter. Complainant’s claim for reimbursement of these costs is supported by a declaration that complies with California Code of Regulations, title 1, section 1042, subdivision (b)(1). These costs are reasonable.

16. Through August 6, 2023, the Board had incurred \$8,325.00 in costs for legal services provided to complainant by the Department of Justice in this matter. Complainant’s claim for reimbursement of these costs is supported by a declaration

that complies with California Code of Regulations, title 1, section 1042, subdivision (b)(2). These costs are reasonable.

LEGAL CONCLUSIONS

1. The Board may suspend or revoke a pharmacy technician registration if clear and convincing evidence proves the facts supporting discipline. Clear and convincing evidence supports Findings 1 through 16.

First Cause for Discipline: Violating Pharmacy Law

2. A pharmacy technician commits unprofessional conduct by violating laws regarding pharmacies and controlled substances. (Bus. & Prof. Code, § 4301, subds. (j), (o).)

3. Possessing a controlled substance or dangerous drug such as cocaine without prescription violates several statutes regarding pharmacies and controlled substances. (Bus. & Prof. Code, §§ 4059, 4060; Health & Saf. Code, § 11170.) The matters stated in Finding 6 constitute cause for discipline against respondent under Business and Professions Code sections 4300 and 4301, subdivisions (j) and (o).

Second Cause for Discipline: Dangerous Drug Use

4. A pharmacy technician commits unprofessional conduct by using drugs in a manner that may endanger himself or the public. (Bus. & Prof. Code, § 4301, subd. (h).)

5. Complainant alleges that respondent used cocaine in a manner that endangered both himself and the public on February 8, 2022, by being under its

influence while working in the pharmacy. Because the matters stated in Findings 4, 9, and 10 do not support this allegation, they do not constitute cause for discipline against respondent under Business and Professions Code section 4301, subdivision (h).

Third Cause for Discipline: Moral Turpitude

6. A pharmacy technician commits unprofessional conduct by engaging in any act “involving moral turpitude, dishonesty, fraud, deceit, or corruption.” (Bus. & Prof. Code, § 4301, subd. (f).)

7. Cocaine use is unlawful and dangerous, but the matters stated in Findings 3 through 14 do not establish any additional acts making respondent’s cocaine use dishonest, corrupt, or immoral. These matters do not constitute cause for discipline against respondent under Business and Professions Code section and 4301, subdivision (f).

Disciplinary Considerations

8. The Board’s Disciplinary Guidelines (Cal. Code Regs., tit. 16, § 1760) characterize substance use disorders as problems for which probation is an appropriate disciplinary action, because of the potential risk to others that such disorders pose. Complainant argues that this matter involves serious, repeated violations by respondent of drug and pharmacy laws, such that license revocation is appropriate. The evidence does not support this argument; rather, the matters stated in Findings 3 through 14 show respondent to have used cocaine irresponsibly but not catastrophically, and to have taken steps to stop using it after recognizing that continuing cocaine use threatened his family, his career, and himself.

9. Under these circumstances, an order placing respondent on probation is appropriate. Respondent should undergo regular bodily fluid testing to confirm continuing abstinence from substances of abuse, and should participate in a program to support abstinence.

Costs

10. The Board may recover its reasonable investigation and prosecution costs from a "licentiate found to have committed a violation or violations of the licensing act." (Bus. & Prof. Code, § 125.3, subd. (a).) The matters stated in Findings 15 and 16 establish that these costs for this matter total \$11,198.75.

11. In *Zuckerman v. State Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth the standards by which a licensing board or bureau must exercise its discretion to reduce or eliminate cost awards to ensure that the board or bureau does not deter licensees with potentially meritorious claims from exercising their administrative hearing rights. The court held that a licensing board requesting reimbursement for costs relating to a hearing must consider the licensee's "subjective good faith belief" in the merits of his position and whether the licensee has raised a "colorable challenge" to the proposed discipline. (*Id.* at p. 45.) The board also must consider whether the licensee will be "financially able to make later payments." (*Ibid.*) Last, the board may not assess full costs of investigation and enforcement when it has conducted a "disproportionately large investigation." (*Ibid.*)

12. All of these matters have been considered. The matters stated in Legal Conclusions 5, 7, and 8 justify reduction of respondent's cost reimbursement obligation to \$4,000. In addition, these matters justify the Board's allowing respondent to complete this reimbursement according to an installment payment plan.

ORDER

Pharmacy Technician Registration No. TCH 105509, held by respondent Ryan Narag Baluyot, is revoked. The revocation is stayed, however, and respondent is placed on probation for five years on 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 after 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, no contest, or similar, 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 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 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 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 this decision, and of the terms, conditions and restrictions imposed on respondent by this order, as follows:

- Within 30 days after the effective date of this decision, and within 10 days after undertaking any new employment, respondent shall report to the Board in writing the name, physical address, and mailing address of each employer, and the name(s) and telephone number(s) of all 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 after the effective date of this decision, and within 15 days after undertaking any new employment, respondent shall cause (a) respondent's direct supervisor, (b) respondent's pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of respondent's employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read this decision and order and the terms and conditions it imposes. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be 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 after the change acknowledging that he or she has read this decision and order 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 and of the terms and conditions it imposes 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 after the effective date of this decision, and within 15 days after 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 it imposes. 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 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 includes any full time, part time, temporary, relief, or employment/management service position as a pharmacy technician, or any position for which a pharmacy technician registration is a requirement or criterion for employment, whether respondent is an employee, independent contractor or volunteer.

6. Notification of Change(s) in Name, Address(es), or Phone Number(s)

Respondent shall notify the Board in writing within 10 days of any change in name, residence address, mailing address, e-mail address or telephone number. Failure to timely notify the Board of any change in name, address, e-mail address, or telephone number shall be considered a violation of probation.

7. Reimbursement of Board 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 \$4,000. Respondent may make this reimbursement according to an installment payment plan approved by the Board or its designee, as long as full payment is

completed no later than one year before the end date of probation. Failure to pay costs by the deadline(s) shall be considered a violation 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 deadline(s) as directed shall be considered a violation of probation.

9. Status of Registration

Respondent shall, at all times while on probation, maintain an active, current Pharmacy Technician Registration with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current Pharmacy Technician Registration shall be considered a violation of probation.

If respondent's Pharmacy Technician Registration 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. 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 registration, including any indicia of registration issued by the Board, along with a request to surrender the registration.

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, 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 respondent's license history with the Board.

Upon acceptance of the surrender, respondent shall relinquish any pocket or wall certificate, including any indicia of registration 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.

11. 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 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

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a registered Pharmacy Technician in California for a minimum of 24 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 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 Pharmacy Technician in California for the minimum number 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.

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.

14. Completion of Probation

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

15. 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.

16. 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 Pharmacy Technician 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 or registration as a Pharmacy Technician. 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.

17. Prescription Coordination and Monitoring of Prescription Use

Within 30 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of respondent's substance use history and who will coordinate and monitor any prescriptions for respondent for dangerous drugs and/or dangerous devices, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the Board's accusation and this decision. A record of this notification must be provided to the Board or its designee upon request.

Respondent shall sign a release authorizing the practitioner to communicate with the Board or its designee about respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the Board on a quarterly basis for the duration of probation regarding respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The Board or its designee may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any reason, cease supervision by the approved practitioner, respondent shall notify

the Board or its designee immediately and, within 30 days of ceasing supervision, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the Board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the Board or its designee for approval, or to ensure the required quarterly reporting thereby, shall be considered a violation of probation.

If at any time an approved practitioner determines that respondent is unable to practice safely or independently as a Pharmacy Technician, the practitioner shall notify the Board or its designee immediately by telephone and follow up by written letter within three working days. Upon notification from the Board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice as a Pharmacy Technician until notified by the Board or its designee that practice may be resumed.

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 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. Respondent shall not resume practice until notified by the Board.

During any suspension, respondent shall not engage in any activity that requires the professional judgment or registration as a Pharmacy Technician. 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.

18. 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.) that 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.

19. Work Site Monitor

Within 10 days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the Board or its designee, who shall be responsible for supervising respondent during working hours. Respondent shall be responsible for ensuring that the work site monitor reports in writing to the Board

monthly or on another schedule as directed by the Board or its designee. Should the designated work site monitor suspect at any time during the probationary period that respondent has abused alcohol or drugs, he or she shall notify the Board immediately.

In the event of suspected abuse, the monitor shall make at least oral notification within one business day of the occurrence, and shall be followed by written notification within two business days of the occurrence. If, for any reason, including change of employment, respondent is no longer able to be monitored by the approved work site monitor, within 10 days respondent shall designate a new work site monitor for approval by the Board or its designee. Failure to timely identify an acceptable initial or replacement work site monitor, or to ensure monthly reports are submitted to the Board by the monitor, shall be considered a violation of probation.

Within 30 days of being approved by the Board or its designee, the work site monitor shall sign an affirmation that he or she has reviewed the terms and conditions of respondent's disciplinary order and agrees to monitor respondent. The work site monitor shall at least:

- Have regular face-to-face contact with respondent in the work environment, at least once per week or with greater frequency if required by the Board or its designee;
- Interview other staff in the office regarding respondent's behavior, if applicable; and
- Review respondent's work attendance.

The written reports submitted to the Board or its designee by the work site monitor shall include at least the following information: respondent's name and

registration number; the monitor's name, license number (if applicable) and work site location; the date(s) the monitor had face-to-face contact with respondent; the staff interviewed, if applicable; an attendance report; notes on any changes in respondent's behavior or personal habits; notes on any indicators that may lead to substance abuse; and the work site monitor's signature.

Respondent shall complete the required consent forms and sign an agreement with the work site monitor and the Board to allow the Board to communicate with the work site monitor.

DATE: 09/01/2023



JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings

1 ROB BONTA
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 CARTER OTT
Deputy Attorney General
4 State Bar No. 221660
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3485
6 Facsimile: (415) 703-5480
E-mail: Carter.Ott@doj.ca.gov
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 Number 7399

13 **RYAN MARAG BALUYOT**
14 703 Capra Dr.
American Canyon, CA 94503

ACCUSATION

15 **Pharmacy Technician License Number**
16 **TCH 105509**

17 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 August 30, 2010, the Board issued Pharmacy Technician License
23 Number TCH 105509 to Ryan Marag Baluyot (Respondent). The Pharmacy Technician License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 October 31, 2023, unless renewed.

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3. This Accusation is brought before the Board under the authority of the following

“The board shall administer and enforce this chapter and the Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).”

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

“The expiration, cancellation, forfeiture, or suspension of a board-issued license by action of law or by order or decision of the board or a court of law, the placement of a license in 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.”

7. Section 4059, subdivision (a) states:

“(a) A person may not furnish any dangerous drug, except upon the prescription of a

“A person shall not possess any controlled substance, except that furnished to a person the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic or pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified e-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the

1 possession of any controlled substance by a manufacturer, wholesaler, third-party logistics
2 provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
3 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock
4 in containers correctly labeled with the name and address of the supplier or producer.

5 “This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician
6 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.”

7 9. Section 4301 states, in part:

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

11 . . .

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

15 . . .

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

21 . . .

22 “(j) The violation of any of the statutes of this state, of any other state, or of the United
23 States regulating controlled substances and dangerous drugs.

24 . . .

25 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
26 violation of or conspiring to violate any provision or term of this chapter or of the applicable

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1 federal and state laws and regulations governing pharmacy, including regulations established by
2 the board or by any other state or federal regulatory agency.

3”

4 10. Health and Safety Code section 11170 states:

5 “No person shall prescribe, administer, or furnish a controlled substance for himself.”

6 **COST RECOVERY**

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

13 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

14 12. Section 4021 states:

15 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
16 11053) of Division 10 of the Health and Safety Code.”

17 13. Section 4022 states, in part:

18 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
19 except veterinary drugs that are labeled as such, and includes the following:

20 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
21 prescription,’ ‘Rx only,’ or words of similar import.

22 . . .

23 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
24 prescription or furnished pursuant to Section 4006.”

25 14. Cocaine is a Schedule II controlled substance, as designated by Health and Safety
26 Code section 11055, subdivision (b)(6), and a dangerous drug as designated by Section 4022.
27 Cocaine is a stimulant drug, which means that it speeds up the messages travelling between the
28 brain and the rest of the body.

1 **FACTUAL BACKGROUND**

2 15. On or about February 8, 2022, Respondent appeared at work, a hospital pharmacy in
3 Napa, California, appearing to be under the influence and impaired. That day, Respondent
4 submitted a urine sample for a drug test, and it tested positive for cocaine.

5 16. According to Respondent, he used from one (1) to two (2) grams of cocaine
6 recreationally on weekends for about two years, a habit that even Respondent characterized as a
7 “drug problem.”

8 **FIRST CAUSE FOR DISCIPLINE**

9 (Violating and Assisting in Violation of Pharmacy Law)

10 17. Respondent subjected his Pharmacy Technician License to discipline for violating
11 California statutes governing pharmacy practice and regulating controlled substances and
12 dangerous drugs. (Bus. & Prof. Code § 4301, subds. (j) and (o).) In particular:

13 a. Respondent possessed cocaine, a controlled substance, without prescription, in
14 violation of Section 4060. (Bus. & Prof. Code §§ 4301, subds. (j) and (o), and 4060.) The
15 circumstances are set forth in paragraphs 15 and 16, above.

16 b. Respondent violated and assisted in and abetted the violation of and conspired
17 to violate Section 4059, subdivision (a), in that he was furnished cocaine, a dangerous drug,
18 without prescription. (Bus. & Prof. Code §§ 4301, subds. (j) and (o), and 4059, subd. (a).) The
19 circumstances are set forth in paragraphs 15 and 16, above.

20 c. Respondent violated and assisted in and abetted the violation of and conspired
21 to violate Health and Safety Code section 11170, in that he was administered and furnished, and
22 administered and furnished to himself, cocaine, a controlled substance. (Bus. & Prof. Code §§
23 4301, subds. (j) and (o); and Health & Saf. Code § 11170.) The circumstances are set forth in
24 paragraphs 15 and 16, above.

25 **SECOND CAUSE FOR DISCIPLINE**

26 (Dangerous Use of Controlled Substance and Dangerous Drug)

27 18. Respondent subjected his Pharmacy Technician License to discipline for
28 administering to himself a controlled substance and using a dangerous drug to the extent or in a

manner as to be dangerous or injurious to himself, to another person or to the public, or to the extent that the use impaired Respondent's ability to conduct with safety to the public the practice authorized by Respondent's Pharmacy Technician License. (Bus. & Prof. Code § 4301, subd. (h).) The circumstances are set forth in paragraph 15, above.

THIRD CAUSE FOR DISCIPLINE

(Moral Turpitude, Fraud, Deceit, or Corruption)

19. Respondent subjected his Pharmacy Technician License to discipline for the commission of acts involving moral turpitude, fraud, deceit, or corruption. (Bus. & Prof. Code § 4301, subd. (f).) The circumstances are set forth in paragraphs 15 and 16, above.

PRAYER

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

1. Revoking or suspending Pharmacy Technician License Number TCH 105509, issued to Ryan Marag Baluyot;
2. Ordering Ryan Marag Baluyot to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 1/19/2023

Sodergren,
Anne@DCA

Digitally signed by
Sodergren, Anne@DCA
Date: 2023.01.19 08:43:28
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ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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