

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

In the Matter of the Accusation Against:

STEVE JOYNER DE VELASCO, Respondent.

Pharmacy Technician Registration No. TCH 106550

Agency Case No. 7463

OAH No. 2023060573

DECISION AFTER REJECTION

Nana Chin, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on August 22, 2023.

Anne Sodergren (complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, State of California, was represented by Michael Yi, Deputy Attorney General.

Steve Joyner De Velasco (respondent) appeared and was represented by Phach T. Ngo, Attorney at Law.

Documents and testimony were received into evidence, the record was closed, and the matter was submitted for decision on August 22, 2023.

The ALJ issued a Proposed Decision on September 25, 2023. On December 20, 2023, pursuant to section 11517 of the Government Code, the Board issued an Order rejecting the Proposed Decision. The Board ordered and subsequently received the transcripts and administrative record of the hearing, and thereafter issued an Order setting March 8, 2024, as the date for the submission of written argument. No new evidence was permitted. Counsel for complainant timely filed written argument; no written argument was submitted on behalf of respondent.

The Board, having reviewed and considered the entire record, including the transcript and exhibits and written argument submitted by complainant, now issues this Decision After Rejection, consistent with the Board's Disciplinary Guidelines.

FACTUAL FINDINGS

Jurisdictional Matters

1. On October 6, 2010, the Board issued Pharmacy Technician Registration No. TCH 106550 (registration) to respondent. That registration will expire on September 30, 2024, unless renewed.

2. On April 15, 2023, complainant, while acting in her official capacity, filed the Accusation alleging respondent: (1) had been convicted of driving while having 0.08 percent or more, by weight, of alcohol in his blood, a crime substantially related to the qualifications, functions, and duties of a licensee on July 22, 2022 (Bus. & Prof. Code ,§§4301, subd. (l) and 490); (2) was guilty of unprofessional conduct by using alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself or others by driving under the influence on February 25, 2022 (Bus. & Prof. Code, §4301, subd. (h)); and (3) knowingly made a false statement of

fact when he failed to disclose his July 22, 2022 conviction on his renewal application for licensure. (Bus. & Prof. Code, §§4300 & 4301, subd. (g)).

3. Respondent filed a notice of defense. All jurisdictional requirements are met.

Respondent's Conduct and Criminal Conviction

4. On July 22, 2022, in *The People of the State of California v. Steve Joyner DeVelasco* (Super. Ct. L.A., 2022, No. 2VV02370), respondent was convicted, on his plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b) (driving while having 0.08% or more, by weight, of alcohol in his blood), a misdemeanor. The court suspended imposition of sentence and placed respondent on 36 months of summary probation. As part of his probation, the court ordered respondent to: (1) serve four days in county jail, with credit for four days; (2) perform 10 days of community labor; (3) enroll and successfully complete in a nine-month licensed first- offender alcohol and other drug education and counseling program (AB1353); (4) not drive a motor vehicle with any measurable amount of alcohol or drugs in his system; (5) submit to a blood/breath alcohol test upon request of law enforcement; (6) not drive a motor vehicle unless properly insured and licensed; (7) enroll in and complete the hospital and morgue (HAM) program and victim impact program (VIP) of Mothers Against Drunk Driving (MADD); (8) install an ignition interlock device on his vehicle; and (9) pay fines, fees and assessments.

5. On June 1, 2023, the court found respondent had paid his court fees, completed his community labor, the AB1353 program, HAM program and VIP, and terminated the proceedings.

6. The facts and circumstances underlying the conviction are that on

February 25, 2022, respondent drove a vehicle while under the influence of alcohol and collided into a parked vehicle.

7. When Los Angeles Police Department (LAPD) officers arrived on the scene at approximately 5:00 p.m., respondent was being loaded into an ambulance to be transported to St. Joseph Medical Center. After taking statements from two witnesses who had been present during the collision, an LAPD officer proceeded to the medical center. When the officer arrived, respondent was in a gurney, his eyes were red and watery, his speech was slurred, and the smell of alcohol was emanating from him. When the police officer asked him what caused the collision, respondent replied, "My drinking . . . " (Exh. 5, p. A62.)

8. The officer proceeded to ask respondent several pre-arrest questions. Respondent, however, was clearly intoxicated during questioning. Respondent claimed he began drinking at 6:00 a.m. and stopped drinking at 6:30 a.m., it was 7:00 p.m. when it was 6:15 p.m., he did "not really" feel effects from the alcohol he consumed, and he was on his way to work. (Exh. 5, p. A59.)

9. The officer then attempted to conduct some standardized field sobriety tests (SFST). While performing the modified Romberg balance test, however, respondent asked for a blanket after 47 seconds. When the officer asked respondent whether he remembered what he was asked to do, respondent stated "he was to roll on his back, close his eyes and chill for 30 second." (Exh. 5, p. A62.) Based on his response, the officer formed the opinion that respondent could not perform the SFST as explained and demonstrated.

10. Respondent submitted a statement regarding the circumstances underlying his arrest, which was substantially consistent with his testimony at hearing. According to respondent, on the day of the incident, he was scheduled to

work beginning at 6:50 a.m. As he was leaving for work that day, he was depressed and "having anxiety on his way to work," having recently lost a cousin and an uncle to COVID-19. During his lunch break at 12:00 p.m., respondent made plans with a friend to meet after work to have some drinks. After work, respondent and the friend met and had several alcoholic drinks, with respondent eventually drinking a half bottle of Hennessy cognac on his own. Respondent did not recall how he parted from his friend but did recall starting his vehicle and driving off. Respondent further admitted he continued to drink out of the Hennessy bottle while driving. Respondent, who had been driving in the "small streets to avoid traffic," became distracted by a dog and hit a parked vehicle. Respondent further stated he had "never drank alcohol prior to or during [his] shift." (Exh. 9, p. A146.)

11. Respondent was subsequently placed under arrest. During the booking procedure, Respondent submitted to a breath test, which revealed a breath alcohol content level of 0.38 percent on the first reading at approximately 7:37 p.m., 0.34 percent on the second reading at approximately 7:40 p.m., and 0.345 percent on the third reading at approximately 7:44 p.m.

Renewal Application

12. Though the investigative report, which was admitted as administrative hearsay as Exhibit 6, states respondent renewed his license online on August 5, 2022. (See, Exh. 6, p. A66), direct evidence presented at the hearing established respondent mailed a hard copy of his renewal application to the Board. (Exh. 7.)

13. The application asks, "Since your last renewal, have you had any disciplinary action against any license issued by a governmental agency or have you been convicted as defined in Section 490 of the Business and Professions Code, or any

violation of law in this or any other state, the United States, or other country?"

Respondent answered "No" to the question. Respondent signed the application on July 22, 2022, stating under penalty of perjury that the information he provided in the application was true and correct.

14. Respondent does not recall if he submitted the application before or after his court appearance but claims he did not intend to mislead the Board. He believed the question asking him if he was convicted in the application was asking him if he had been sentenced to jail. Respondent acknowledged that if he had mailed the application after his court appearance, he would have made a mistake in filling out the application.

15. Complainant failed to establish respondent's answer in the application was false. Respondent was convicted on July 22, 2022. The evidence did not establish that respondent signed the declaration after his July 22, 2022 court appearance.

Rehabilitation and Mitigation

16. At hearing, respondent admitted to incurring the criminal conviction and the facts underlying it. Respondent further stated he has had a long-standing relationship with alcohol and began drinking when he was 15 years old.

17. Following his arrest, he realized he had a problem with alcohol and, on March 1, 2022, entered an addiction program offered by Kaiser Permanente. The program consists of a combination of group meetings and one-on-one therapy. Respondent attended the group meetings twice a week for six months but has since stopped attending and attends Alcoholics Anonymous once a week online instead. He does not have a sponsor. Respondent, however, continues to attend the one-on-one therapy sessions every three to four weeks depending on his work and school

schedule.

18. Respondent has worked as a pharmacy technician at the University of California, Los Angeles (UCLA) Ronald Reagan Medical Center for the past 12 years and has not been subject to any discipline during that time. Respondent asserted that he has never gone to work intoxicated. Respondent also acknowledged the importance of using good judgement when acting as a pharmacy technician and understood the Board's concerns about his conduct. Respondent claimed that he had learned his lesson and would never repeat the conduct which led to his arrest.

19. While working, respondent has also been attending school for the past several years, completing the necessary courses to become a physician's assistant. Respondent interrupted his studies to complete the probation requirements stemming from his criminal conviction, including his community service and AB1353 program.

Cost Certification

20. Pursuant to Business and Professions Code section 125.3, complainant requested prosecution costs of \$4,885 and investigation costs of \$2,329.25. The ALJ found that a portion of those costs were not properly supported.

21. Specifically, the Board submitted a Certification of Investigative Costs; Declaration of Katherine Sill, wherein the declarant states under penalty of perjury that she spent 19.25 hours in investigation of the case as follows: 4.75 hours of investigation, 3.75 hours in traveling and 10.75 hours in report preparation. Nothing in the record established this work was performed. The investigative report, which was prepared by Inspector Gallegos, indicates the investigation largely consisted of the collection of documents by email and makes no indication Inspector Sill participated in the investigation of this case. Accordingly, the ALJ denied those costs.

22. Based on the forgoing, the ALJ found that the Board reasonably incurred a total of \$4,885 in prosecution costs.

LEGAL CONCLUSIONS

Purpose of Pharmacy Law

1. "Protection of the public shall be the highest priority for the California State Board of Pharmacy in exercising its licensing, regulatory, and disciplinary functions." (Bus. & Prof. Code, § 4001.1.).

Standard and Burden of Proof

2. Absent a statute to the contrary, the burden of proof in administrative disciplinary proceedings rests upon the party making the charges. (*Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 99, 113; Evid. Code, § 115.) As the party making the charges, the burden of proof is therefore on complainant.

3. In determining the proper standard of proof to apply in license disciplinary proceedings, courts have drawn a distinction between professional licenses and nonprofessional or occupational licenses. In proceedings involving a professional license, the standard of proof is clear and convincing evidence, while in disciplinary proceedings involving a nonprofessional or occupational licenses, the standard of proof is preponderance of the evidence. (*Lone Star Sec. & Video, Inc. v. Bureau of Security and Investigative Services* (2012) 209 Cal.App.4th 445, 453.)

4. An applicant for a professional license must ordinarily satisfy extensive educational and training requirements and then pass a rigorous state-administered competency examination while a nonprofessional license typically is issued without the

need to demonstrate any specific education or skill such as a competency examination and upon a showing of good character.

5. Pursuant to Business and Professions Code section 4202, a pharmacy technician license may be issued upon showing the applicant is a high school graduate or possesses a general education development certificate equivalent and has obtained an associate's degree in pharmacy technology; has completed a course of training specified by the Board; graduated from a school of pharmacy recognized by the Board or is certified by a pharmacy technician-certifying organization offering a certification program accredited by the National Commission for Certifying Agencies and approved by the Board. Pharmacy technicians, however, are not required to undergo any competency examination and are only permitted to perform nondiscretionary tasks that do not require a pharmacist's professional judgement. (See, Bus. & Prof. Code, § 4115, subd. (a); Cal. Code Regs., tit. 16, § 1793.) Therefore, a pharmacy technician registration is a nonprofessional or occupational license. As such, the preponderance of the evidence standard applies in this proceeding.

6. "'Preponderance of the evidence' means evidence that has more convincing force than that opposed to it." [Citations.] The sole focus of the legal definition of "preponderance" in the phrase "preponderance of the evidence" is on the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314,324-325, original italics.) "If the evidence is so evenly balanced that you are unable to say that the evidence on either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it [citation]." (*People v. Mabini* (2001) 92 Cal.App.4th 654, 663.)

First Cause for Discipline-Conviction of a Substantially Related Crime

7. The Board may suspend or revoke a license or registration if the registrant has been convicted of a crime substantially related to the qualifications, functions, or duties of the vocation or profession for which the license was issued. (Bus. & Prof. Code, § 490.)

8. Under Business and Professions Code section 4301, subdivision (j), the Board may revoke or suspend a pharmacy technician registration for unprofessional conduct if the registrant has been convicted of a crime substantially related to the qualifications, functions, and duties of a licensee. An act is substantially related to the qualifications, functions, or duties of a pharmacy technician registrant if it evidences his present or potential unfitness to perform the functions authorized by his registration in a manner consistent with the public health, safety, or welfare. (Cal. Code Regs., tit. 16 (CCR), § 1770.)

9. Cause exists to discipline respondent's pharmacy technician registration, pursuant to sections 490, 4301, subdivision (j) and CCR section 1770, because he has been convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician, as set forth in Factual Findings 4 and 16, and Legal Conclusions 7 & 8. Driving while intoxicated demonstrates characteristics inconsistent with the duties and responsibilities of pharmacy technicians, who have access to dangerous drugs and maintain a position of trust to their customers.

Second Cause for Discipline-Unprofessional Conduct

10. The Board may discipline a pharmacy technician registration for unprofessional conduct if a registrant has engaged in the dangerous use of alcohol. (Bus. & Prof. Code, § 4301, subd. (h).)

11. Cause exists to discipline Respondent's registration pursuant to § 4301, subdivision (h) in that respondent, on February 25, 2022, consumed alcoholic

beverages in excess and then proceeded to drive while intoxicated and collide into a parked vehicle as set forth in Factual Findings 7 through 11 and 16 and Legal Conclusion 10.

Third Cause for Discipline -Knowingly Made a False Statement of Fact

12. The Board may discipline a pharmacy technician registration for unprofessional conduct if a registrant “[k]nowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.” (Bus. & Prof. Code, § 4301, subd. (g).)

13. Cause does not exist to discipline respondent’s license under Business and Professions Code section 4301, subdivision (g) because complainant failed to establish by a preponderance of the evidence that respondent knowingly failed to disclose his 2022 conviction on his pharmacy registration renewal application as set forth in Factual Findings 12 through 15.

Disciplinary Guidelines

14. The Board has adopted Disciplinary Guidelines and Uniform Standards Related to Substance Abuse (Disciplinary Guidelines), incorporated by reference at CCR section 1760, for use in reaching a decision on a disciplinary action under the Administrative Procedure Act. Regarding drug and alcohol related violations, the Guidelines note generally:

The Board recognizes the importance of ensuring the safe and effective delivery of dangerous drugs and controlled substances for therapeutic purposes. At the same time and given the historical and current abuse and diversion of

drugs, particularly controlled substances, the [B]oard believes there should be no tolerance for licensees who traffic in drugs or who, in the absence of appropriate evidence of rehabilitation, personally abuse drugs or alcohol.

(Exh. 8, p. A93)

15. In determining the level of seriousness of penalty, the Disciplinary Guideline provide the following:

1. actual or potential harm to the public
2. actual or potential harm to any consumer
3. prior disciplinary record . . .
4. prior warning(s), including . . . citation(s)
5. number and/or variety of current violations
6. nature and severity of the [acts leading to discipline]
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. . . . dismissal. . . pursuant to [Penal Code section 1203.4]

13. time passed since the act(s)

14. whether the conduct was intentional or negligent

15. financial benefit to the respondent from the misconduct

16. other licenses held by the respondent and license
history of those licenses

(Exh. 8, p. A95.)

16. Under the Disciplinary Guidelines, violations are categorized as more or less serious. Category 1 is the least serious and Category 4, the most. The number of violations is also a factor in establishing the seriousness of a disciplinary action. (Exh. B, p. A97). Violations arising from a single criminal conviction for alcohol abuse is a Category 2 violation and the minimum recommended penalty is revocation, stayed with three years' probation (five years' probation in cases involving self-administration or diversion of controlled substances or dangerous drugs and/or dangerous devices, or abusive use of alcohol) and the maximum recommended penalty is revocation. (Exh. 8. At p. 98.)

17. In the present instance, there was a serious act of misconduct, drinking and then driving in a manner that could have endangered other persons and that did cause damage to property. His crime is recent, and he remains on summary probation. However, there was no evidence respondent has a history of prior discipline. Respondent admitted committing the act underlying his criminal conviction and expressed remorse for his actions. Respondent has since taken proactive steps to address his addiction to alcohol. Respondent's evidence of rehabilitation and the

absence of any prior discipline or other criminal conviction demonstrate that the maximum recommended discipline, revocation, is not warranted and a five-year period of probation with standard terms of probation is appropriate and sufficient to protect the public interest.

18. Based on respondent's 12-year history as a working pharmacy technician for a single employer without any discipline, a clinical diagnostic evaluation will not be required, however, based on respondent's admission of his substance abuse the optional probation terms requiring respondent to abstain from drugs and alcohol, drug and alcohol testing as well as attendance of substance abuse recovery relapse prevention and support groups are added.

19. Upon reviewing the entire record, the Board agrees with the discipline imposed, but noted multiple instances where the Order in the Proposed Decision omitted or deviated from the language in the Disciplinary Guidelines for several conditions of probation. Accordingly, for consistency with the Disciplinary Guidelines, the Board has modified the Order to correct these omissions and deviations.

Costs

20. The ALJ determined that the reasonable costs of enforcement in this matter are \$4,885 as set forth in Factual Finding 22.

21. The Board must consider respondent's financial resources before ordering payment of these costs. (*Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.) Respondent presented no evidence that he is unable to pay the Board's enforcement costs.

22. Under Business and Professions Code section 125.3, only an ALJ can order costs to be paid. Accordingly, the costs of \$4,885 ordered by the ALJ are imposed.

ORDER

Pharmacy Technician Registration No. TCH 106550 issued to respondent Steve De Velasco (respondent) is revoked; however, the revocation is stayed and respondent is placed on probation for five years upon the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo contendere, 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 as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

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

3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear for two (2) 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 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 7463 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

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

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b) his pharmacist-in-charge, designated representative-in-charge,

responsible manager, or other compliance supervisor, and (c) the owner or owner representative of his employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 7463, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the Board in writing within 15 days of the change acknowledging that he or she has read the decision in case number 7463, 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 7463, and the terms and conditions imposed thereby in advance of respondent commencing work at such licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment by or through an employment service, respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 7463, and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

Failure to timely notify present or prospective employer(s) or 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 license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

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

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

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 \$4,885.

Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee, so long as full payment is completed no later than one year prior to the end date of probation.

There shall be no deviation from 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.

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 License

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 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 practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may relinquish his license, including any indicia of licensure issued by the Board, along with a request to surrender the license. The Board or its

designee shall have the discretion whether to accept the surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of respondent's license history with the Board.

Upon acceptance of the surrender, respondent shall relinquish his pocket and/or wall license, including any indicia of licensure not previously provided to the Board within 10 days of notification by the Board that the surrender is accepted if not already provided.

Respondent may not reapply for any license from the Board for 3 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 Prior to Resuming Work

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 – 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 40 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 [insert license type] in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

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

13. 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.

14. Attend Substance Abuse Recovery Relapse Prevention and Support Groups

Within 30 days of the effective date of this decision, respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board or its designee. Respondent must attend the number of group meetings per week or month directed by the Board or its designee, which shall typically be at least one per week. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

15. Drug and Alcohol Testing

Respondent, at his own expense, shall participate in testing as directed by the Board or its designee for the detection of alcohol, controlled substances, and dangerous drugs and/or dangerous devices. Testing protocols may include biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other testing protocols as directed by the Board or its designee. All testing must be pursuant to an observed testing protocol, unless respondent is informed otherwise in writing by the Board or its designee. Respondent may be required to participate in testing for the entire probation period and frequency of testing will be determined by the Board or its designee.

By no later than 30 days after the effective date of this decision, respondent shall have completed all of the following tasks: enrolled and registered with an approved drug and alcohol testing vendor; provided that vendor with any documentation, and any information necessary for payment by respondent; commenced testing protocols, including all required contacts with the testing vendor to determine testing date(s); and begun testing. At all times, respondent shall fully cooperate with the testing vendor, and with the Board or its designee, with regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to cooperate timely shall be considered a violation of probation.

Respondent may be required to test on any day, including weekends and holidays. Respondent is required to make daily contact with the testing vendor to determine if a test is required, and if a test is required must submit to testing on the same day.

Prior to any vacation or other period of absence from the area where the approved testing vendor provides services, respondent shall seek and receive approval from the Board or its designee to use an alternate testing vendor to ensure testing can occur. Upon approval, respondent shall enroll and register with the approved alternate drug testing vendor, provide to that alternate vendor any documentation required by the vendor, including any necessary payment by respondent. During the period of absence of the area, respondent shall commence testing protocols with the alternate vendor, including required daily contacts with the testing vendor to determine if testing is required, and required testing. Any failure to timely seek or receive approval from the Board or its designee, or to timely enroll and register with, timely commence testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be considered a violation of probation.

Upon detection of an illicit drug, controlled substance or dangerous drug, the Board or its designee may require respondent to timely provide documentation from a licensed practitioner authorized to prescribe the detected substance demonstrating that the substance was administered or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such documentation shall be provided by respondent within 10 days of being requested.

Any of the following shall be considered a violation of probation and shall result in respondent being immediately suspended from practice as a 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 and/or licensure 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.

16. 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.

17. Completion of Probation

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

This Decision After Rejection shall become effective at 5:00 p.m. on June 14, 2024.

It is so ORDERED on May 15, 2024.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with a large initial "S" and "O".

Seung W. Oh, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

STEVE JOYNER DE VELASCO, Respondent

Pharmacy Technician Registration No. TCH 106550

Agency Case No. 7463

OAH No. 2023060573

ORDER REJECTING PROPOSED DECISION

Pursuant to section 11517 of the Government Code, the Proposed Decision of the Administrative Law Judge in the above-entitled matter is rejected. The California State Board of Pharmacy (hereinafter "board") will decide the case upon the record, including the transcript(s) of the hearing, and upon such written argument as the parties may wish to submit. No new evidence may be submitted.

The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

It is so ORDERED on December 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". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" being clearly legible, and "W." in the middle.

Seung W. Oh, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

STEVE JOYNER DE VELASCO, Respondent.

Pharmacy Technician Registration No. TCH 106550

Agency Case No. 7463

OAH No. 2023060573

PROPOSED DECISION

Nana Chin, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on August 22, 2023.

Anne Sodergren (complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, State of California, was represented by Michael Yi, Deputy Attorney General.

Steve Joyner De Velasco (respondent) appeared and was represented by Phach T. Ngo, Attorney at Law.

Documents and testimony were received into evidence, the record was closed, and the matter was submitted for decision on August 22, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. On October 6, 2010, the Board issued Pharmacy Technician Registration No. TCH 106550 (registration) to respondent. That registration will expire on September 30, 2024, unless renewed.

2. On April 15, 2023, complainant, while acting in her official capacity, filed the Accusation alleging respondent: (1) had been convicted of driving while having 0.08 percent or more, by weight, of alcohol in his blood, a crime substantially related to the qualifications, functions, and duties of a licensee on July 22, 2022 (Bus. & Prof., §§4301, subd. (f) and 490); (2) was guilty of unprofessional conduct by using alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself or others by driving under the influence on February 25, 2022 (Bus. & Prof., §4301, subd. (h)); and (3) knowingly made a false statement of fact when he failed to disclose his July 22, 2022 conviction on his renewal application for licensure. (Bus. & Prof., §§4300 & 4301, subd. (g))

3. Respondent filed a notice of defense. All jurisdictional requirements are met.

Respondent's Conduct and Criminal Conviction

4. On July 22, 2022, in *The People of the State of California v. Steve Joyner DeVelasco* (Super. Ct. L.A., 2022, No. 2VV02370), respondent was convicted, on his plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b) (driving while having 0.08% or more, by weight, of alcohol in his blood), a misdemeanor. The court suspended imposition of sentence and placed respondent on 36 months of

summary probation. As part of his probation, the court ordered respondent to: (1) serve four days in county jail, with credit for four days; (2) perform 10 days of community labor; (3) enroll and successfully complete in a nine-month licensed first-offender alcohol and other drug education and counseling program (AB1353); (4) not drive a motor vehicle with any measurable amount of alcohol or drugs in his system; (5) submit to a blood/breath alcohol test upon request of law enforcement; (6) not drive a motor vehicle unless properly insured and licensed; (7) enroll in and complete the hospital and morgue (HAM) program and victim impact program (VIP) of Mothers Against Drunk Driving (MADD); (8) install an ignition interlock device on his vehicle; and (9) pay fines, fees and assessments.

5. On June 1, 2023, the court found respondent had paid his court fees, completed his community labor, the AB1353 program, HAM program and VIP, and terminated the proceedings.

6. The facts and circumstances underlying the conviction are that on February 25, 2022, respondent drove a vehicle while under the influence of alcohol and collided into a parked vehicle.

7. When Los Angeles Police Department (LAPD) officers arrived on the scene at approximately 5:00 p.m., respondent was being loaded into an ambulance to be transported to St. Joseph Medical Center. After taking statements from two witnesses who had been present during the collision, an LAPD officer proceeded to the medical center. When the officer arrived, respondent was in a gurney, his eyes were red and watery, his speech was slurred, and the smell of alcohol was emanating from him. When the police officer asked him what caused the collision, respondent replied, "My drinking . . . " (Exh. 5, p. A62.)

8. The officer proceeded to ask respondent several pre-arrest questions. Respondent, however, was clearly intoxicated during questioning. Respondent claimed he began drinking at 6:00 a.m. and stopped drinking at 6:30 a.m., it was 7:00 p.m. when it was 6:15 p.m., he did "not really" feel effects from the alcohol he consumed, and he was on his way to work. (Exh. 5, p. A59.)

9. The officer then attempted to conduct some standardized field sobriety tests (SFST). While performing the modified Romberg balance test, however, respondent asked for a blanket after 47 seconds. When the officer asked respondent whether he remembered what he was asked to do, respondent stated "he was to roll on his back, close his eyes and chill for 30 second." (Exh. 5, p. A62.) Based on his response, remembered the officer formed the opinion that respondent could not perform the SFST as explained and demonstrated.

10. Respondent submitted a statement regarding the circumstances underlying his arrest, which was substantially consistent with his testimony at hearing. According to respondent, on the day of the incident, he was scheduled to work beginning at 6:50 a.m. As he was leaving for work that day, he was depressed and "having anxiety on his way to work," having recently lost a cousin and an uncle to COVID-19. During his lunch break at 12:00 p.m., respondent made plans with a friend to meet after work to have some drinks. After work, respondent and the friend met [at a bar?] where they had several alcoholic drinks, with respondent eventually drinking a half bottle of Hennessy cognac on his own. Respondent did not recall how he parted from his friend but did recall starting his vehicle and driving off. Respondent further admitted he continued to drink out of the Hennessy bottle while driving. Respondent, who had been driving in the "small streets to avoid traffic," became distracted by a

dog and hit a parked vehicle. Respondent further stated he had “never drank alcohol prior to or during [his] shift.” (Exh. 9, p. A146.)

11. Respondent was subsequently placed under arrest. During the booking procedure, Respondent submitted to a breath test, which revealed a breath alcohol content level of 0.38 percent on the first reading at approximately 7:37 p.m., 0.34 percent on the second reading at approximately 7:40 p.m., and 0.345 percent on the third reading at approximately 7:44 p.m.

Renewal Application

12. Though the investigative report, which was admitted as administrative hearsay as Exhibit 6, states respondent renewed his license online on August 5, 2022. (See, Exh. 6, p. A66), direct evidence presented at the hearing established respondent mailed a hard copy of his renewal application to the Board. (Exh. 7.)

13. The application asks, “Since your last renewal, have you had any disciplinary action against any license issued by a governmental agency or have you been convicted as defined in Section 490 of the Business and Professions Code, or any violation of law in this or any other state, the United States, or other country?” Respondent answered “No” to the question. Respondent signed the application on July 22, 2022, stating under penalty of perjury that the information he provided in the application was true and correct.

14. Respondent does not recall if he submitted the application before or after his court appearance but claims he did not intend to mislead the Board. He believed the question asking him if he was convicted in the application was asking him if he had been sentenced to jail. Respondent acknowledged that if he had mailed the

application after his court appearance, he would have made a mistake in filling out the application.

15. Complainant failed to establish respondent's answer in the application was false. Respondent was convicted on July 22, 2022. The evidence did not establish that respondent signed the declaration after his July 22, 2022, court appearance.

Rehabilitation and Mitigation

16. At hearing, respondent admitted to incurring the criminal conviction and the facts underlying it. Respondent further stated he has had a long-standing relationship with alcohol and began drinking when he was 15 years old.

17. Following his arrest, he realized he had a problem with alcohol and, on March 1, 2022, entered an addiction program offered by Kaiser Permanente. The program consists of a combination of group meetings and one-on-one therapy. Respondent attended the group meetings twice a week for six months but has since stopped attending and attends Alcoholics Anonymous once a week online instead. He does not have a sponsor. Respondent, however, continues to attend the one-on-one therapy sessions every three to four weeks depending on his work and school schedule.

18. Respondent has worked as a pharmacy technician at the University of California, Los Angeles (UCLA) Ronald Reagan Medical Center for the past 12 years and has not been subject to any discipline during that time. Respondent asserted that he has never gone to work intoxicated. Respondent also acknowledged the importance of using good judgement when acting as a pharmacy technician and understood the Board's concerns about his conduct. Respondent claimed that he had learned his lesson and would never repeat the conduct which led to his arrest.

19. While working, respondent has also been attending school for the past several years, completing the necessary courses to become a physician's assistant. Respondent interrupted his studies to complete the probation requirements stemming from his criminal conviction, including his community service and AB1353 program.

Cost Certification

20. Pursuant to Business and Professions Code section 125.3, complainant requested prosecution costs of \$4,885 and investigation costs of \$2,329.25. A portion of those costs were not properly supported.

21. Specifically, the Board submitted a Certification of Investigative Costs; Declaration of Katherine Sill, wherein the declarant states under penalty of perjury that she spent 19.25 hours in investigation of the case as follows: 4.75 hours of investigation, 3.75 hours in traveling and 10.75 hours in report preparation. Nothing in the record established this work was performed. The investigative report, which was prepared by Inspector Gallegos, indicates the investigation largely consisted of the collection of documents by email and makes no indication Inspector Sill participated in the investigation of this case. Those costs are therefore denied.

22. Based on the forgoing, the Board reasonably incurred a total of \$4,885 in prosecution costs.

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LEGAL CONCLUSIONS

Purpose of Pharmacy Law

1. "Protection of the public shall be the highest priority for the California State Board of Pharmacy in exercising its licensing, regulatory, and disciplinary functions." (Bus. & Prof. Code, § 4001.1.).

Standard and Burden of Proof

2. Absent a statute to the contrary, the burden of proof in administrative disciplinary proceedings rests upon the party making the charges. (*Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 99, 113; Evid. Code, § 115.) As the party making the charges, the burden of proof is therefore on complainant.

3. In determining the proper standard of proof to apply in license disciplinary proceedings, courts have drawn a distinction between professional licenses and nonprofessional or occupational licenses. In proceedings involving a professional license, the standard of proof is clear and convincing evidence, while in disciplinary proceedings involving a nonprofessional or occupational licenses, the standard of proof is preponderance of the evidence. (*Lone Star Sec. & Video, Inc. v. Bureau of Security and Investigative Services* (2012) 209 Cal.App.4th 445, 453.)

4. An applicant for a professional license must ordinarily satisfy extensive educational and training requirements and then pass a rigorous state-administered competency examination while a nonprofessional license typically is issued without the need to demonstrate any specific education or skill such as a competency examination and upon a showing of good character.

5. Pursuant to Business and Professions Code section 4204, a pharmacy technician license may be issued upon showing the applicant is a high school graduate or possesses a general education development certificate equivalent and has obtained an associate's degree in pharmacy technology; has completed a course of training specified by the Board; graduated from a school of pharmacy recognized by the Board or is certified by a pharmacy technician-certifying organization offering a certification program accredited by the National Commission for Certifying Agencies and approved by the Board. Pharmacy technicians, however, are not required to undergo any competency examination and are only permitted to perform nondiscretionary tasks that do not require a pharmacist's professional judgement. (See, Bus. & Prof. Code, § 4115, subd. (a); Cal. Code Regs., tit. 16, § 1793.) Therefore, a pharmacy technician registration is a nonprofessional or occupational license. As such, the preponderance of the evidence standard applies in this proceeding.

6. "'Preponderance of the evidence' means evidence that has more convincing force than that opposed to it." [Citations.]The sole focus of the legal definition of "preponderance" in the phrase "preponderance of the evidence" is on the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314,324-325, original italics.) "If the evidence is so evenly balanced that you are unable to say that the evidence on either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it [citation]." (*People v. Mabini* (2001) 92 Cal.App.4th 654, 663.)

First Cause for Discipline-Conviction of a Substantially Related Crime

7. The Board may suspend or revoke a license or registration if the registrant has been convicted of a crime substantially related to the qualifications,

functions, or duties of the vocation or profession for which the license was issued.
(Bus. & Prof. Code, § 490.)

8. Under Business and Professions Code section 4301, subdivision (j), the Board may revoke or suspend a pharmacy technician registration for unprofessional conduct if the registrant has been convicted of a crime substantially related to the qualifications, functions, and duties of a licensee. An act is substantially related to the qualifications, functions, or duties of a pharmacy technician registrant if it evidences his present or potential unfitness to perform the functions authorized by his registration in a manner consistent with the public health, safety, or welfare. (Cal. Code Regs., tit. 16 (CCR), § 1770.)

9. Cause exists to discipline respondent's pharmacy technician registration, pursuant to sections 490, 4301, subdivision (j) and CCR section 1770, because he has been convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician, as set forth in Factual Findings 4 and 16, and Legal Conclusions 7 & 8. Driving while intoxicated demonstrates characteristics inconsistent with the duties and responsibilities of pharmacy technicians, who have access to dangerous drugs and maintain a position of trust to their customers.

Second Cause for Discipline-Unprofessional Conduct

10. The Board may discipline a pharmacy technician registration for unprofessional conduct if a registrant has engaged in the dangerous use of alcohol. (Bus. & Prof. Code, § 4301, subd. (h).)

11. Cause exists to discipline Respondent's registration pursuant to § 4301, subdivision (h) in that respondent, on February 25, 2022, consumed alcoholic beverages in excess and then proceeded to drive while intoxicated and collide into a

parked vehicle as set forth in Factual Findings 7 through 11 and 16 and Legal Conclusion 10.

Third Cause for Discipline -Knowingly Made a False Statement of Fact

12. The Board may discipline a pharmacy technician registration for unprofessional conduct if a registrant "[k]nowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts." (Bus. & Prof. Code, § 4301, subd. (g).)

13. Cause does not exist to discipline respondent's license under Business and Professions Code section 4301, subdivision (f) because complainant failed to establish by a preponderance of the evidence that respondent knowingly failed to disclose his 2022 conviction on his pharmacy registration renewal application as set forth in Factual Findings 12 through 15.

Disciplinary Guidelines

14. The Board has adopted Disciplinary Guidelines and Uniform Standards Related to Substance Abuse (Disciplinary Guidelines), incorporated by reference at CCR section 1760, for use in reaching a decision on a disciplinary action under the Administrative Procedure Act. Regarding drug and alcohol related violations, the Guidelines note generally:

The Board recognizes the importance of ensuring the safe and effective delivery of dangerous drugs and controlled substances for therapeutic purposes. At the same time and given the historical and current abuse and diversion of drugs, particularly controlled substances, the [B]oard

believes there should be no tolerance for licensees who traffic in drugs or who, in the absence of appropriate evidence of rehabilitation, personally abuse drugs or alcohol.

(Exh. 8, p. A93)

15. In determining the level of seriousness of penalty, the Disciplinary Guideline provide the following:

1. actual or potential harm to the public
2. actual or potential harm to any consumer
3. prior disciplinary record . . .
4. prior warning(s), including . . . citation(s)
5. number and/or variety of current violations
6. nature and severity of the [acts leading to discipline]
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. . . . dismissal. . . pursuant to [Penal Code section 1203.4]

13. time passed since the act(s)

14. whether the conduct was intentional or negligent

15. financial benefit to the respondent from the misconduct

16. other licenses held by the respondent and license
history of those licenses

(Exh. 8, p. A95.)

16. Under the Disciplinary Guidelines, violations are categorized as more or less serious. Category 1 is the least serious and Category 4, the most. The number of violations is also a factor in establishing the seriousness of a disciplinary action. (Exh. B, p. A97). Violations arising from a single criminal conviction for alcohol abuse is a Category 2 violation and the minimum recommended penalty is revocation, stayed with three years' probation (five years' probation in cases involving self-administration or diversion of controlled substances or dangerous drugs and/or dangerous devices, or abusive use of alcohol) and the maximum recommended penalty is revocation. (Exh. 8. at p. 98.)

17. In the present instance, there was a serious act of misconduct, drinking and then driving in a manner that could have endangered other persons and that did cause damage to property. His crime is recent, and he remains on summary probation. However, there was no evidence respondent has a history of prior discipline. Respondent admitted committing the act underlying his criminal conviction and expressed remorse for his actions. Respondent has since taken proactive steps to address his addiction to alcohol. Respondent's evidence of rehabilitation and the

absence of any prior discipline or other criminal conviction demonstrate that the maximum recommended discipline, revocation, is not warranted and a five-year, period of probation with standard terms of probation is appropriate and sufficient to protect the public interest.

18. Based on respondent's 12-year history as a working pharmacy technician for a single employer without any discipline, a clinical diagnostic evaluation will not be required, however, based on respondent's admission of his substance abuse the optional probation terms requiring respondent to abstain from drugs and alcohol, drug and alcohol testing as well as attendance of substance abuse recovery relapse prevention and support groups are added.

Costs

19. The reasonable costs of enforcement in this matter are \$4,885 as set forth in Factual Finding 22.

20. The Board must consider respondent's financial resources before ordering payment of these costs. (*Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.) Respondent presented no evidence that he is unable to pay the Board's enforcement costs.

ORDER

Pharmacy Technician Registration No. TCH 106550 issued to respondent Steve De Velasco (respondent) is revoked; however, the revocation is stayed and respondent is placed on probation for five years upon the following terms and conditions:

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1. Obey All Laws

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo contendere, 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 as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

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

3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear for two (2) 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 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.

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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 7463 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

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

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of his employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 7463, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's

responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the Board in writing within 15 days of the change acknowledging that he or she has read the decision in case number 7463, 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 7463, and the terms and conditions imposed thereby in advance of respondent commencing work at such licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment by or through an employment service, respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 7463, and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

Failure to timely notify present or prospective employer(s) or 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 license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

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

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

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 \$4,885.

Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee, so long as full payment is completed no later than one year prior to the end date of probation.

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.

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9. Status of License

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 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 practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may relinquish his license, including any indicia of licensure issued by the Board, along with a request to surrender the license. The Board or its designee shall have the discretion whether to accept the surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of respondent's license history with the Board.

Upon acceptance of the surrender, respondent shall relinquish his pocket and/or wall license, including any indicia of licensure not previously provided to the

Board within 10 days of notification by the Board that the surrender is accepted if not already provided.

Respondent may not reapply for any license from the Board for 3 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 Prior to Resuming Work

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 – 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 40 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 [insert license type] in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

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

13. 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.

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14. Attend Substance Abuse Recovery Relapse Prevention and Support Groups

Within 30 days of the effective date of this decision, respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board or its designee. Respondent must attend the number of group meetings per week or month directed by the Board or its designee, which shall typically be at least one per week. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

15. Drug and Alcohol Testing

Respondent, at his own expense, shall participate in testing as directed by the Board or its designee for the detection of alcohol, controlled substances, and dangerous drugs and/or dangerous devices. Testing protocols may include biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other testing protocols as directed by the Board or its designee. All testing must be pursuant to an observed testing protocol, unless respondent is informed otherwise in writing by the Board or its designee. Respondent may be required to participate in testing for the entire probation period and frequency of testing will be determined by the Board or its designee.

By no later than 30 days after the effective date of this decision, respondent shall have completed all of the following tasks: enrolled and registered with an approved drug and alcohol testing vendor; provided that vendor with any

documentation, and any information necessary for payment by respondent; commenced testing protocols, including all required contacts with the testing vendor to determine testing date(s); and begun testing. At all times, respondent shall fully cooperate with the testing vendor, and with the Board or its designee, with regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to cooperate timely shall be considered a violation of probation.

Respondent may be required to test on any day, including weekends and holidays. Respondent is required to make daily contact with the testing vendor to determine if a test is required, and if a test is required must submit to testing on the same day.

Prior to any vacation or other period of absence from the area where the approved testing vendor provides services, respondent shall seek and receive approval from the Board or its designee to use an alternate testing vendor to ensure testing can occur. Upon approval, respondent shall enroll and register with the approved alternate drug testing vendor, provide to that alternate vendor any documentation required by the vendor, including any necessary payment by respondent. During the period of absence of the area, respondent shall commence testing protocols with the alternate vendor, including required daily contacts with the testing vendor to determine if testing is required, and required testing. Any failure to timely seek or receive approval from the Board or its designee, or to timely enroll and register with, timely commence testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be considered a violation of probation.

Upon detection of an illicit drug, controlled substance or dangerous drug, the Board or its designee may require respondent to timely provide documentation from a licensed practitioner authorized to prescribe the detected substance demonstrating

that the substance was administered or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such documentation shall be provided by respondent within 10 days of being requested.

Any of the following shall be considered a violation of probation and shall result in respondent being immediately suspended from practice as a pharmacy technician until notified by the Board.

16. 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.

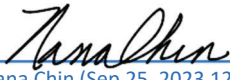
If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, or the 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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17. Completion of Probation

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

DATE: 09/25/2023


Nana Chin (Sep 25, 2023 12:12 PDT)

NANA CHIN

Administrative Law Judge

Office of Administrative Hearings

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
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Attorneys for Complainant
7

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. 7463

13 **STEVE JOYNER DE VELASCO**

ACCUSATION

14 6664 Backman Ave, Apt. 4
North Hollywood, CA 91606

15 Pharmacy Technician Registration No. TCH
106550

16 Respondent.
17

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.

22 2. On or about October 6, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 106550 to Steve Joyner De Velasco (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on September 30, 2024, unless renewed.

26 **JURISDICTION**

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

1 4. Section 4300 states:

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

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

5 (1) Suspending judgment.

6 (2) Placing him or her upon probation.

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

8 (4) Revoking his or her license.

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

11 (c) The board may refuse a license to any applicant guilty of unprofessional
12 conduct. The board may, in its sole discretion, issue a probationary license to any
13 applicant for a license who is guilty of unprofessional conduct and who has met all
 other requirements for licensure. The board may issue the license subject to any
 terms or conditions not contrary to public policy, including, but not limited to, the
 following:

14 (1) Medical or psychiatric evaluation.

15 (2) Continuing medical or psychiatric treatment.

16 (3) Restriction of type or circumstances of practice.

17 (4) Continuing participation in a board-approved rehabilitation program.

18 (5) Abstention from the use of alcohol or drugs.

19 (6) Random fluid testing for alcohol or drugs.

20 (7) Compliance with laws and regulations governing the practice of pharmacy.

21 (d) The board may initiate disciplinary proceedings to revoke or suspend any
22 probationary certificate of licensure for any violation of the terms and conditions of
23 probation. Upon satisfactory completion of probation, the board shall convert the
 probationary certificate to a regular certificate, free of conditions.

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

27 5. Section 4300.1 states:

28 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

1 placement of a license on a retired status, or the voluntary surrender of a license by a
2 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.

3 STATUTORY PROVISIONS

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

7 7. Section 4301 states, in pertinent part:

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

10 . . .

11 (g) Knowingly making or signing any certificate or other document that falsely
12 represents the existence or nonexistence of a state of facts.

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

16 . . .

17 (l) The conviction of a crime substantially related to the qualifications,
18 functions, and duties of a licensee under this chapter. The record of conviction of a
19 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
20 States Code regulating controlled substances or of a violation of the statutes of this
21 state regulating controlled substances or dangerous drugs shall be conclusive
22 evidence of unprofessional conduct. In all other cases, the record of conviction shall
23 be conclusive evidence only of the fact that the conviction occurred. The board may
24 inquire into the circumstances surrounding the commission of the crime, in order to
25 fix the degree of discipline or, in the case of a conviction not involving controlled
26 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.

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1 **REGULATORY PROVISIONS**

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

3 (a) 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
sought or held if to a substantial degree it evidences present or potential unfitness of
an applicant or licensee to perform the functions authorized by the license in a
manner consistent with the public health, safety, or welfare.

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

9 (1) The nature and gravity of the offense;

10 (2) The number of years elapsed since the date of the offense; and

11 (3) The nature and duties of the practice, profession, or occupation that may be
12 performed under the license type sought or held.

13 (c) For purposes of subdivision (a), substantially related crimes, professional
misconduct, or acts shall include, but are not limited to, those which:

14 (1) Violate or attempt to violate, directly or indirectly, or to aid, abet or
15 conspire to violate, any provision of law of this state, or any other jurisdiction,
governing the practice of pharmacy.

16 (2) Violate or attempt to violate, directly or indirectly, or to aid, abet or
17 conspire to violate, any provision of Chapter 13 (commencing with Section 801) of
Title 21 of the United States Code regulating controlled substances or any law of this
18 state, or any other jurisdiction, relating to controlled substances or dangerous drugs.

19 (3) Violate or attempt to violate, directly or indirectly, or to aid, abet or
20 conspire to violate, any provision of law of this state, or any other jurisdiction,
relating to government provided or government supported healthcare.

21 (4) Involve dishonesty, fraud, deceit, or corruption related to money, items,
documents, or personal information.

22 (5) Involve a conviction for driving under the influence of drugs or alcohol.

23 **COST RECOVERY**

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

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

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

3 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
4 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
5 Respondent was convicted of a crime substantially related to the qualifications, functions or
6 duties of a pharmacy technician. Specifically, on or about July 22, 2022, after pleading nolo
7 contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code
8 section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his
9 blood] in the criminal proceeding entitled *The People of the State of California v. Steve Joyner*
10 *Develasco* (Super. Ct. L.A., 2022, No. 2VV02370). The court sentenced Respondent to serve 4
11 days in jail, ordered him to complete a nine-month first offender DUI program, and placed him on
12 48 months' probation, with terms and conditions. The circumstances surrounding the conviction
13 are that on or about February 25, 2022, Respondent collided with a parked vehicle. When
14 officers arrived on the scene, at approximately 5:00 p.m., he was being loaded into an ambulance
15 to be transported to a medical center. Officers met with Respondent at the medical center and
16 could smell the odor of alcohol emitting from Respondent's person. He was also observed to
17 have red, watery eyes and his speech was slurred. When asked what caused the collision, he
18 replied, "My drinking..." Respondent initially indicated that he had consumed a few shots of
19 liquor then later stated that he had consumed a half pint of Hennessy at work between 6:00 a.m.
20 and 6:30 a.m. Respondent was subsequently placed under arrest. During the booking procedure,
21 Respondent submitted to a breath test., which revealed a breath alcohol content level of 0.38% on
22 the first reading at approximately 7:00 p.m., and 0.34% on the second reading at approximately
23 7:40 p.m., and 0.34% on the third reading at approximately 7:44 p.m.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Dangerous Use of Alcohol)**

26 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
27 the grounds of unprofessional conduct, in that on or about February 25, 2022, Respondent used
28 alcoholic beverages to an extent or in a manner dangerous or injurious to himself, any person, or

1 the public. Complainant refers to, and by this reference incorporates, the allegations set forth
2 above in paragraph 10, as though fully set forth herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Knowingly Made a False Statement of Fact)**

5 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
6 subdivision (g), in that Respondent knowingly made a false statement of fact when he failed to
7 disclose his July 22, 2022 conviction for driving under the influence of alcohol on his renewal
8 application for licensure. Complainant refers to and by this reference incorporates the allegations
9 set forth above in paragraph 10, as though set forth fully.

10 **PRAYER**

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

13 1. Revoking or suspending Pharmacy Technician Registration Number TCH 106550,
14 issued to Steve Joyner De Velasco;

15 2. Ordering Steve Joyner De Velasco to pay the Board of Pharmacy the reasonable costs
16 of the investigation and enforcement of this case, pursuant to Business and Professions Code
17 section 125.3; and,

18 3. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: 4/15/2023

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.04.15 06:56:37
-07'00'

22 ANNE SODERGREN
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

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