

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

**In the Matter of the Accusation Against:**

**LISSETTE GONZALEZ, Respondent**

**Pharmacy Technician Registration No. TCH 153640**

**Agency Case No. 7621**

**OAH No. 2023110018**

**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 15, 2024.

It is so ORDERED on February 14, 2024 .

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.  
Board President

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**In the Matter of the Accusation Against:**

**LISSETTE GONZALEZ,**

**Pharmacy Technician Registration No. TCH 153640,**

**Respondent.**

**Agency Case No. 7621**

**OAH No. 2023110018**

**PROPOSED DECISION**

Julie Cabos-Owen, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on December 18, 2023. Anne Sodergren (Complainant) was represented by Deputy Attorney General Vivian Cho. Lissette Gonzalez (Respondent) represented herself.

At the hearing, the Accusation was amended by interlineation at Exhibit 1, page A10, paragraph 10, line 2 to change the number "2022" to "2023."

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on December 18, 2023.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On April 15, 2016, the California Board of Pharmacy (Board) issued Pharmacy Technician Registration Number TCH 153640 to Respondent. Her Pharmacy Technician Registration (license) is scheduled to expire on February 29, 2024.
2. On October 17, 2023, Complainant filed the Accusation while acting in her official capacity as Executive Officer of the Board, Department of Consumer Affairs.
3. Respondent timely filed a Notice of Defense requesting a hearing.

### **Respondent's 2023 Criminal Conviction**

4. On July 21, 2023, Respondent was convicted on her nolo contendere plea of violating Vehicle Code section 23103, subdivision (a) (reckless driving), a misdemeanor. (Super. Ct. San Bernardino County, 2023, No. MWV22001926.)
5. The court placed Respondent on probation for one year and ordered her to serve 10 days in jail through a weekend work-release program, with credit for two days served. The court also ordered her to complete a three-month first offender DUI program and to pay fines and fees totaling \$1,791 through \$163 monthly installments beginning September 1, 2023. Respondent's probation is scheduled to expire July 21, 2024.
6. The circumstances surrounding Respondent's 2023 criminal conviction are as follows: At about 2:26 a.m. on June 12, 2021, Respondent was involved in a traffic collision. When police officers arrived at the accident scene, they observed Respondent had suffered injuries from the crash. While speaking to Respondent, an

officer observed Respondent's breath smelled of alcohol, her speech was slurred, and she had red, watery eyes. Respondent admitted she had been driving home from a bar after drinking alcohol, and she conceded that she should not have been driving after drinking alcohol. Respondent refused to submit to any field sobriety tests, and she was arrested. During the booking procedure, Respondent provided a blood sample at about 3:45 a.m. that revealed her blood alcohol content of 0.19 percent.

### **Substantial Relationship of Respondent's Crime to Her Profession**

7. Sejal R. Desai, B.S., Pharm.D., testified on Complainant's behalf. Dr. Desai has been a California-licensed pharmacist since 2003, and she has practiced as a pharmacist and pharmacist-in-charge. Since 2011, Dr. Desai has been an inspector for the Board. Dr. Desai testified in a sincere manner, and she presented as a credible witness. Her credible testimony established factual findings 8 and 9, below.

8. In their licensed profession, pharmacy technicians are responsible for stocking and inventorying drugs and filling prescriptions. Consequently, pharmacy technicians have direct access to dangerous drugs and controlled substances. Pharmacy technicians also have access to confidential patient information, including financial information and medical information. Given their access to drugs and confidential information, pharmacy technicians must be honest and trustworthy and must have good judgment.

9. Driving under the influence of alcohol demonstrates a lapse in good judgment and indicates a willingness to put the public at risk. Consequently, Respondent's alcohol-related criminal conviction demonstrates Respondent's potential unfitness to perform her licensed functions in a manner consistent with the public

health, safety, and welfare. Therefore, her criminal conviction is substantially related to the qualifications, functions, and duties of a pharmacy technician.

### **Disciplinary Consideration - Respondent's 2012 Criminal Conviction**

10. To determine the degree of discipline to be imposed on Respondent, the following is considered: On August 1, 2012, Respondent was convicted on her nolo contendere plea of violating Vehicle Code section 23103, subdivision (a) (alcohol-related reckless driving), a misdemeanor. (Super. Ct. Los Angeles County, 2012, No. 2PS02281.)

11. The court placed Respondent on summary probation for two years and ordered her to complete 110 hours of community service. Respondent completed her community service, and her probation has expired.

### **Respondent's Evidence at Hearing**

12. Respondent testified at the administrative hearing in a respectful and forthright manner. She presented as a credible witness.

13. Respondent admitted committing the 2021 crime for which she was convicted in 2023. She noted she had gone to a restaurant with coworkers for "dinner and drinks," and she was driving home afterward when the accident occurred. Although she noted "it is no excuse," she explained that she intended to have someone pick her up from the restaurant, and when they did not do so, she attempted to get a Lyft which never came. By then it was dark, and she was alone, so she got into her vehicle and drove.

14. Respondent is "very ashamed" of her misconduct, and she apologized for her "mistake." She recognizes why the Board is concerned about her criminal

conviction. Respondent understands that driving while intoxicated places lives in danger. Respondent assured the Board that she “will never put [her]self or anybody in harm’s way again.” She believes she responsible and trustworthy.

15. Respondent has served her jail time. She was scheduled to complete the court-ordered DUI program on December 19, 2023. She continues to pay her court fees in monthly installments.

16. Respondent denied being dependent on alcohol. She drinks alcohol only occasionally “at events,” but not on any regular basis. Respondent has never attended Alcoholics Anonymous (AA) meetings, and she was not ordered to do so.

17. Respondent has worked for orthopedist Edwin Haronian, M.D., at his workers compensation practice for 13 years. Dr. Haronian has a physician-dispensing practice, and he purchases pre-packaged medications (with pre-counted amounts in each bottle) from pharmacies to have an office supply for dispensing directly to patients. Dr. Haronian does not prescribe narcotics, and the medications dispensed to patients are typically naproxen (generic for Aleve), ibuprofen (generic for Motrin), antacids, or muscle relaxers.

18. Respondent’s duties at Dr. Haronian’s practice include scheduling patients, answering phone calls, opening and closing the office, ordering pre-packaged medications from pharmacies, maintaining a medication inventory, and dispensing medications to patients as ordered by the doctor.

19. Respondent’s job titles at Dr. Haronian’s practice are “medical assistant” and “pharmacy technician.” Prior to her licensure in 2016, Respondent worked solely as a “medical assistant.”

20. Respondent is not supervised by a pharmacist, and there are no other pharmacy technicians at Dr. Haronian's practice.

21. Respondent does not need a pharmacy technician registration to perform her assigned tasks at Dr. Haronian's practice, and she cannot order medications under her pharmacy technician registration.

22. Although Respondent does not need a pharmacy technician registration for her current employment, she would like to maintain her licensure because she "worked hard to get it." She would like to keep open the possibility of working in a more traditional pharmacy setting.

23. Respondent has support of her employer, Dr. Haronian, who testified and submitted a letter on her behalf. Dr. Haronian testified in a straightforward manner, and he presented as a credible witness. He is aware of Respondent's current and prior criminal convictions. He noted that Respondent has been "very responsible," "punctual," and "detail oriented," and he relies on Respondent to manage other team members. Dr. Haronian has never seen Respondent act in any manner that was careless or compromised the office or any patient care. He opined that her absence would be detrimental to his practice.

## **Costs**

24. Complainant submitted a Certification of Prosecution Costs/Declaration of Vivian Cho, certifying that the Department of Justice, Office of the Attorney General billed the Board \$4,690 for legal services provided through December 15, 2023.

25. The evidence established that Complainant incurred total prosecution costs of \$4,690.

26. Respondent currently earns about \$2,600 per month. She supports herself, and she helps support her two children who are employed but still live with her. She also receives financial support from her children's father. In addition to paying \$163 per month toward court fees, Respondent's expenses include a mortgage payment (\$2,100), vehicle insurance (\$300), and a car payment (\$523). She is also responsible for paying attorney's fees and class fees totaling \$4,000 to \$5,000.

## **LEGAL CONCLUSIONS**

1. Business and Professions Code section 4301 requires the Board to impose discipline on any pharmacy licensee who is guilty of unprofessional conduct. Unprofessional conduct includes:

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other 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. [¶] . . . [¶]

(j) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter .....The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not

involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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

(a) For the purpose of denial, suspension, or revocation of a . . . license . . . a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions or duties of the [licensed] practice, profession, or occupation . . . 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.

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

(1) The nature and gravity of the offense;

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

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

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

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

3. Cause exists to discipline Respondent's pharmacy technician license, pursuant to Business and Professions Code section 4301, subdivision (j), and California Code of Regulations, title 16, section 1770, on the grounds that Respondent has been convicted of a crime which is substantially related to the qualifications, functions, and duties of a pharmacy technician, as set forth in Factual Findings 4 through 9, and Legal Conclusions 1 and 2.

4. Cause exists to discipline Respondent's pharmacy technician license, pursuant to Business and Professions Code section 4301, subdivision (h), for the use of

alcoholic beverages to the extent or in a manner as to be dangerous to herself and the public, as set forth in Factual Findings 4 through 6.

5. Pursuant to the Board's Disciplinary Guidelines, in determining the appropriate discipline in a case, factors such as the following should be considered: (1) actual or potential harm to the public; (2) actual or potential harm to any consumer; (3) prior disciplinary record, including level of compliance with disciplinary order(s); (4) prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s); (5) number and/or variety of current violations; (6) nature and severity of the act(s), offense(s) or crime(s) under consideration; (7) aggravating evidence; (8) mitigating evidence; (9) rehabilitation evidence; (10) compliance with terms of any criminal sentence, parole, or probation; (11) overall criminal record; (12) if applicable, evidence of proceedings for case being set aside and dismissed pursuant to Section 1203.4 of the Penal Code; (13) time passed since the act(s) or offense(s); (14) whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct; (15) financial benefit to the respondent from the misconduct; (16) other licenses held by the respondent and license history of those licenses; and (17) Uniform Standards Regarding Substance-Abusing Healing Arts Licensees.

6. Respondent's drunk driving in June 2021 is concerning. She placed the public at risk, and she caused injury to herself. As an aggravating factor, Respondent has a prior alcohol-involved reckless driving conviction in 2012. After being entrusted with licensure in 2016, Respondent betrayed that trust and sustained the 2021 arrest. However, Respondent has established some rehabilitation.

7. Respondent expressed remorse for her violations and for placing herself and others in danger. Remorse for one's conduct and the acceptance of responsibility are the cornerstones of rehabilitation. (See *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (See *Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933; *In the Matter of Brown, supra*.)

12. However, remorse alone does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Respondent has a history of licensure and employment without patient or employer complaint. However, given Respondent's two alcohol-related driving convictions, albeit 10 years apart, she presents a risk of recidivism. Additionally, Respondent's good behavior while on criminal probation since her 2023 criminal conviction is afforded only minimal weight. (*In re Gossage* (2000) 23 Cal.4th 1080.) Consequently, there has been no passage of time to assess Respondent's rehabilitation since her release from the criminal justice system.

13. Nevertheless, Respondent has the support of her employer, Dr. Haronian, who attested to Respondent's propriety and dependability in the work setting for 13 years. Character references from employers, supervisors, colleagues, and associates familiar with Respondent's work practices are given careful consideration. (See *Werner v. State Bar of Cal.* (1954) 42 Cal.2d 187, 196-197, and *Preston v. State Bar of Cal.* (1946) 28 Cal.2d 643, 650-651.)

14. Administrative actions regarding a state-issued license are not for the primary purpose of punishing an individual. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 165.) Rather, in issuing and disciplining licenses, a state agency is primarily concerned with protection of the public, maintaining the integrity and high standards

of the profession, and preserving public confidence in licensure. (*Ibid*; see also *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.)

15. Given Respondent's sincere expressions of remorse, and considering the support of her 13-year employer, Respondent has established she is sufficiently rehabilitated such that revocation of her license would be unduly harsh discipline. A period of oversight with probationary terms is appropriate to protect the public health, safety, and welfare.

16. Pursuant to Business and Professions Code section 125.3, Complainant is entitled to recover the reasonable costs incurred in the investigation and prosecution of this matter. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 (*Zuckerman*), the Supreme Court set forth factors to consider in determining the reasonableness of costs. These factors include: (1) the licentiate's success in getting the charges dismissed or the severity of the discipline imposed reduced; (2) the licentiate's subjective good faith belief in the merits of his or her position; (3) whether the licentiate raised a colorable challenge to the proposed discipline; (4) the licentiate's financial ability to pay; and (5) whether the scope of the investigation was appropriate in light of the alleged misconduct.

18. The *Zuckerman* factors are applied to this case as follows: (1) Because both causes for discipline were established, Respondent was unsuccessful in getting charges dismissed, but she established sufficient rehabilitation to warrant reduction of the severity of discipline. (2) Respondent established a good faith belief in her argument for continued licensure, albeit with revocation stayed and probationary oversight. (3) Respondent did not raise a justifiable challenge to the proposed discipline of revocation, but she was able to challenge outright revocation and obtain the reduced discipline of probation. (4) Respondent's income and expenses are such

that she would be unable to pay all the Board's prosecution costs. (5) The scope of the Bureau investigation was appropriate given the alleged misconduct and the complexity of the subject matter. Considering all the *Zuckerman* factors, there is a basis for reducing the award of Complainant's reasonable costs by 50 percent, and Respondent shall pay the Board the reasonable costs for investigation and enforcement totaling \$2,345.

19. Respondent is currently employed in a setting that does not require a pharmacy technician registration. Therefore, Respondent is not employed as a licensed pharmacy technician. Consequently, Respondent will need to secure employment as a licensed pharmacy technician, as specified in the probationary conditions. This will allow the Board to monitor and verify her safety to practice as a pharmacy technician. If Respondent does not wish to work as a licensed pharmacy technician, she may request surrender of her pharmacy technician registration, as specified in probationary condition 11.

## **ORDER**

Pharmacy Technician Registration Number TCH 153640, issued to Respondent Lissette Gonzalez, is revoked. However, the revocation is stayed, and Respondent is placed on probation for four 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:

(1) 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

(2) 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

(3) a conviction of any crime

(4) 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 or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

4. COOPERATE WITH BOARD STAFF

Respondent shall timely cooperate with the Board's inspection program and with the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of her 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. CONTINUING EDUCATION

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacy technician as directed by the Board or its designee.

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## 6. REPORTING OF EMPLOYMENT AND NOTICE TO EMPLOYERS

During the period of probation, Respondent shall notify all present and prospective employers of this Decision (Case number 7621; OAH number 2023110018) and the terms, conditions and restrictions imposed on Respondent by this 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 her employer(s), and the name(s) and telephone number(s) of all of her 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) her direct supervisor, (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of her employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read this Decision (Case number 7621; OAH number 2023110018), and the 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 this Decision (Case number 7621; OAH number 2023110018), and the terms and conditions imposed thereby.

If Respondent works for or is employed by or through an employment service, Respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board of this Decision (Case number 7621; OAH number 2023110018), 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 this Decision (Case number 7621; OAH number 2023110018), 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.

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"Employment" within the meaning of this provision includes any full-time, part-time, temporary, relief, or employment/management service position as a pharmacy technician, or any position for which a pharmacy technician registration is a requirement or criterion for employment, whether Respondent is an employee, independent contractor, or volunteer.

7. 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.

8. 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 \$2,345.

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 six months prior to the end date of probation.

Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

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#### 9. PROBATION MONITORING COSTS

Respondent shall pay any costs associated with probation monitoring as determined by the Board each 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.

#### 10. STATUS OF LICENSE

Respondent shall, at all times on probation, maintain an active, current pharmacy technician registration with the Board, including any period during which suspension or probation is tolled.

Failure to maintain an active, current pharmacy technician registration shall be considered a violation of probation.

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

#### 11. 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 her 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 the Respondent's license history with the board.

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

Respondent may not reapply for any license from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board, including any outstanding costs.

## 12. CERTIFICATION PRIOR TO RESUMING WORK

Respondent shall be suspended and shall not work as a pharmacy technician until she has been certified as defined by Business and Professions Code section 4202, subdivision (a)(4), has submitted proof of certification to the board, and has been notified by the board or its designee that she may begin work. Failure to achieve certification within six months of the effective date shall be considered a violation of probation.

During suspension, Respondent shall not enter any pharmacy area or any portion of any other Board 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 do any act involving drug selection, selection of stock, manufacturing, compounding, or dispensing; nor shall Respondent manage, administer, or assist any

licensee of the Board. Respondent shall not have access to or control the ordering, distributing, manufacturing, or dispensing of dangerous drugs and/or dangerous devices or controlled substances. During this suspension, Respondent shall not engage in any activity that requires licensure as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or dangerous devices, or controlled substances. Failure to comply with any such suspension shall be considered a violation of probation.

### 13. PRACTICE REQUIREMENT – EXTENSION OF PROBATION

Except during periods of suspension, Respondent shall, at all times on probation, be employed as a pharmacy technician in California for a minimum of 20 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, Respondent must nonetheless comply with all terms and conditions of probation, unless Respondent receives a waiver in writing from the board or its designee. If Respondent does not practice as a pharmacy technician in California for the minimum number of hours in any calendar month, for any reason (including vacation), Respondent shall notify the board in writing within ten days of the conclusion of that calendar month. This notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which Respondent will resume practice at the required level. Respondent shall further notify the Board in writing within ten days following the next calendar month during which Respondent practices as a pharmacy technician in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation. It is a violation of probation

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

#### 14. DRUG AND ALCOHOL TESTING

Respondent, at her 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 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 regarding 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 she 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 her 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.

///

15. ABSTAIN FROM DRUGS AND ALCOHOL

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a necessary part of treatment. Respondent shall ensure that she is not in the same physical location as individuals who are using illicit substances even if Respondent is not personally ingesting the drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices or controlled substances, or their associated paraphernalia for which a legitimate prescription has not been issued as a necessary part of treatment, or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

16. 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.

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#### 17. WORK SITE MONITOR / PRACTICE SUPERVISOR

Within 30 days of the effective date of this Decision, Respondent shall submit to the Board or its designee, for prior approval, the name of a pharmacist licensed by and not on probation with the Board, to serve as Respondent's practice supervisor. As part of the documentation submitted, Respondent shall cause the proposed practice supervisor to report to the Board in writing acknowledging that he or she has read the Decision in this case (Case number 7621; OAH number 2023110018) and is familiar with the terms and conditions imposed thereby, including the level of supervision required by the Board or its designee. Respondent may have multiple supervisors approved by the Board if necessary to meet respondent's work requirements. Any of the following shall be considered a violation of probation: failure to timely nominate either an initial or a replacement practice supervisor; failure to cause the practice supervisor to timely report to the Board in writing acknowledging the decision, terms and conditions, and supervision level; practicing in the absence of an approved practice supervisor after lapse of the nomination period; and/or failure to adhere to the level of supervision required by the Board or its designee. If any of these obligations or prohibitions is not met, Respondent shall be prohibited from practice as a pharmacy technician and may not resume such practice until notified by the Board or its designee in writing.

#### 18. 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.

#### 19. 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: **01/05/2024**

*Julie Cabos-Owen*

JULIE CABOS-OWEN

Administrative Law Judge

Office of Administrative Hearings

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Attorney General of California  
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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. 7621

13 **LISSETTE GONZALEZ**

**ACCUSATION**

14 519 S. Park Ave  
Rialto, CA 92376

15 Pharmacy Technician Registration  
No. TCH 153640

16 Respondent.  
17

18 **PARTIES**

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

21 2. On or about April 15, 2016, the Board issued Pharmacy Technician Registration  
22 Number TCH 153640 to Lissette Gonzalez (Respondent). The Pharmacy Technician Registration  
23 was in full force and effect at all times relevant to the charges brought herein and will expire on  
24 February 29, 2024, unless renewed.

25 **JURISDICTION**

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

28 ///

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  
5                   guilty, by any of the following methods:

6                           (1) Suspending judgment.

7                           (2) Placing him or her upon probation.

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

9                           (4) Revoking his or her license.

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

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

18                           (1) Medical or psychiatric evaluation.

19                           (2) Continuing medical or psychiatric treatment.

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

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

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

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

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

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

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

34           5.     Section 4300.1 states:

35                   The expiration, cancellation, forfeiture, or suspension of a board-issued license  
36                   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 (h) The administering to oneself, of any controlled substance, or the use of any  
12 dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
13 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.

14 . . .

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

25 **REGULATORY PROVISIONS**

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

27 (a) For the purpose of denial, suspension, or revocation of a personal or facility  
28 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the

1 Business and Professions Code, a crime, professional misconduct, or act shall be  
2 considered substantially related to the qualifications, functions or duties of the  
3 practice, profession, or occupation that may be performed under the license type  
4 sought or held if to a substantial degree it evidences present or potential unfitness of  
5 an applicant or licensee to perform the functions authorized by the license in a  
6 manner consistent with the public health, safety, or welfare.

7 (b) In making the substantial relationship determination required under  
8 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  
14 misconduct, or acts shall include, but are not limited to, those which:

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

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

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

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

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

### 28 **COST RECOVERY**

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

### **FIRST CAUSE FOR DISCIPLINE**

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

10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
490, in conjunction with California Code of Regulations, title 16, section 1770, in that

1 Respondent was convicted of a crime substantially related to the qualifications, functions or  
2 duties of a registered pharmacy technician. Specifically, on or about July 21, 2022, after pleading  
3 nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code  
4 section 23103, subdivision (a) [wet reckless] in the criminal proceeding entitled *The People of the*  
5 *State of California v. Lissette Gonzalez* (Super. Ct. San Bernardino, 2022, No. MWV22001926).  
6 The court sentenced Respondent to serve 10 days in jail, ordered her to complete a three-month  
7 first offender DUI program, and placed her on probation for one year, with terms and conditions.  
8 The circumstances surrounding the conviction are that on or about June 12, 2021, at or around  
9 2:26 a.m., Respondent was involved in a traffic collision. When police officers arrived on the  
10 scene, they encountered Respondent who was wearing scrubs and had suffered injuries from the  
11 crash. While speaking to Respondent, an officer could smell the odor of alcohol emitting from  
12 her breath and person. She was also observed to have red watery eyes and her speech was  
13 slurred. Respondent admitted to driving home from a bar and conceded the fact that since she  
14 had been drinking, she should not have been driving. Respondent refused to submit to any field  
15 sobriety tests and was arrested. During the booking procedure, Respondent provided a blood  
16 sample, at or around 3:45 a.m., that revealed a blood alcohol content level of 0.19%.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Dangerous Use of Alcohol)**

19 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), on  
20 the grounds of unprofessional conduct, in that on or about June 12, 2021, Respondent used  
21 alcoholic beverages to an extent or in a manner dangerous or injurious to herself, any person, or  
22 the public. Complainant refers to, and by this reference incorporates, the allegations set forth  
23 above in paragraph 10, as though fully set forth herein.

24 **DISCIPLINE CONSIDERATIONS**

25 12. To determine the degree of discipline, if any, to be imposed on Respondent,  
26 Complainant alleges that on or about August 1, 2012, Respondent was convicted of one  
27 misdemeanor count of violating Vehicle Code section 23103, subdivision (a) [reckless driving] in  
28 the criminal proceeding entitled *The People of the State of California v. Lissette Gonzalez* (Super.

1 Ct. L.A. County, 2012, No. 2PS02281). The court placed Respondent on two years' probation,  
2 with terms and conditions.

3 **PRAYER**

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

- 6 1. Revoking or suspending Pharmacy Technician Registration Number TCH 153640,  
7 issued to Lissette Gonzalez;
- 8 2. Ordering Lissette Gonzalez to pay the Board of Pharmacy the reasonable costs of the  
9 investigation and enforcement of this case, pursuant to Business and Professions Code section  
10 125.3; and,
- 11 3. Taking such other and further action as deemed necessary and proper.
- 12

13  
14 DATED: 10/17/2023

Sodergren,  
Anne@DCA

 Digitally signed by Sodergren,  
Anne@DCA  
Date: 2023.10.17 14:22:16 -07'00'

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

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