

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

In the Matter of the Accusation Against:

SARA LYNN OROZCO, Respondent

Case No. 7698

OAH No. 2024070609

DECISION AFTER REJECTION

Brian Weisel, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on October 10, 2024, from Sacramento, California.

Stephanie Alamo-Latif, Deputy Attorney General, represented complainant, Anne Sodergren, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Respondent Sara Lynn Orozco appeared at hearing and represented herself.

Evidence was received, and the record was held open until October 14, 2024, to allow respondent to submit additional exhibits. On October 14, 2024, respondent submitted three additional exhibits. The exhibits were marked for identification as exhibits A through C and admitted. On October 14, 2024, the record was closed, and

the matter submitted for decision.

The ALJ issued a Proposed Decision on November 8, 2024. On January 10, 2025, 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 27, 2025, as the date for the submission of written argument with no new evidence allowed to be presented. 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. As set forth herein, the Board agrees that the discipline imposed by the ALJ is supported by the facts, and finds the ALJ's reasoning otherwise sound and persuasive, but has determined that certain modifications to the Proposed Decision are warranted for consistency with the Board's Disciplinary Guidelines and to correct certain nonprejudicial errors and omissions that the Board noted in the Proposed Decision.

FACTUAL FINDINGS

Jurisdictional Matters

1. On October 9, 2013, the Board issued to respondent Pharmacy Technician License number TCH 135464 (license). The license will expire on January 31, 2027, unless renewed or revoked.

2. On April 15, 2024, complainant, in her official capacity, signed and filed the Accusation. Complainant seeks to discipline respondent's license based upon her criminal conviction and her dangerous consumption of alcohol.

3. Respondent timely filed a Notice of Defense. The matter was set for an evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq., and the October 10, 2024 hearing followed.

Criminal Conviction

4. On December 13, 2023, in the Superior Court of California, County of Fresno, respondent was convicted on her plea of nolo contendere of a violation of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol concentration (BAC) of 0.08 percent or more), a misdemeanor. The court sentenced respondent to three years of informal probation, 15 days in jail to be completed in the court's work program, a driving under the influence (DUI) class, and fines and fees.

5. The circumstances of respondent's conviction occurred on October 7, 2022. Respondent drove along a state highway and veered left over the broken yellow lines. Her car then veered back to the right against the edge of the lane on the right-side shoulder and veered back into the center of the lane. A California Highway Patrol officer witnessed the above and initiated a traffic stop of respondent's vehicle. Respondent admitted to the officer she consumed alcohol before driving. She smelled of alcohol and her eyes appeared red and watery. Respondent performed a series of field sobriety tests that indicated alcohol impairment. Respondent provided two breath samples which confirmed her BAC to be 0.24 and 0.23 percent. Respondent was arrested without further incident.

Respondent's Evidence

6. Respondent works in a substance abuse facility in Corcoran State Prison. She fills prescriptions and delivers them to nurses on site. Respondent loves her job

and working with her colleagues. She notified her employer about the conviction and this pending Accusation before the Board.

7. Respondent admitted she drank alcohol and drove her vehicle. From 2019 to 2022, respondent experienced several difficulties in her personal life. Her prior partner abused her. Respondent obtained a restraining order, but her partner violated it multiple times. Although the relationship ended, respondent still “tried to process things” and “had a hard time.” She continues an outstanding family law case with her ex-partner regarding custody of their child.

8. On the date of the incident, respondent argued with her prior partner and became upset. She stopped at a liquor store on her way to Walmart. She drank vodka in the Walmart parking lot. She does not know how much alcohol she consumed in the parking lot. She also drove to Buffalo Wild Wings, where she ordered some food and consumed “a couple drinks.” Respondent drove away from the restaurant and was stopped by law enforcement and arrested for DUI.

9. Respondent began attending Alcoholics Anonymous (AA) classes shortly after her arrest, before the court ordered them as a term of her probation. Respondent learned she had an alcohol abuse problem. She now knows “alcohol wasn’t the solution, it was the problem.” She stopped attending AA after a few months as she had “learned everything [she] could from AA.” She still drinks alcohol occasionally. She believes her last drink was in July of 2024.

10. Respondent met with a psychiatrist and a counselor intermittently from 2019 through 2023. She started taking medication for depression. Eventually respondent was assigned a new counselor. Respondent did not feel comfortable with the new counselor, so she stopped attending counseling. She is the sole provider for her disabled mother and five children.

11. Respondent completed her DUI class and her work program. She continues to make payments on her court fines. Her criminal probation expires in 2026. She asks that her license not be placed on probation as she feels that testing and reporting requirements would be "very invasive." However, she would comply with any Board probationary terms to maintain her license.

Analysis

12. Respondent committed a crime substantially related to the qualifications, functions, and duties of a licensee. Respondent's use of alcohol and decision to drive a vehicle show poor judgment, and a willingness to place herself and the public at risk. A pharmacy technician handles sensitive drugs and is required to show sound judgment to adequately serve the public. Respondent's conviction and excessive use of alcohol evidence present or potential unfitness to perform the functions or duties of a pharmacy technician consistent with the public health, safety, and welfare. Thus, her criminal conduct and use of alcohol in excess are unprofessional conduct. Therefore, complainant established cause to discipline respondent's license.

13. The determination whether to discipline a license should be made only after consideration of the conduct of the licensee and consideration of any factors introduced in justification, mitigation, aggravation, and rehabilitation. The licensee "should be permitted to introduce evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation." (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449; *Brandt v. Fox* (1979) 90 Cal.App.3d 737, 747.)

14. The Board adopted Disciplinary Guidelines (Guidelines) setting forth recommended levels of license discipline. (Cal. Code Regs., tit. 16, § 1760.)¹ According

¹ The Board notes that the Guidelines were updated as of January 1, 2025. (See Cal. Code Regs., tit. 16, §

to the Guidelines, respondent's conviction of a crime substantially related to practice as a pharmacy technician and dangerous use of alcohol qualify as a Category II offense. The minimum recommended discipline is five years' probation with appropriate terms. The maximum is revocation.

15. In California Code of Regulations, title 16, section 1769, subdivision (c), the Board has set forth factors to be considered in reaching a decision on appropriate discipline. The regulations includes the following criteria for evaluating the rehabilitation of a licensee when considering the suspension or revocation of a license based upon a conviction: nature and gravity of the offense; total criminal record; time elapsed since commission of the offense; whether the licensee has complied with any terms of probation; and evidence of rehabilitation.

16. Applying the relevant factors here, respondent's BAC was quite high, and her conviction is recent. She is still on criminal probation. She completed her DUI class and attended some AA classes and counseling. She continues to drink alcohol occasionally. She has no prior discipline and continues to work as a pharmacy technician.

17. When all the evidence is considered, the ALJ found that respondent initiated the process of rehabilitation. However, the ALJ further determined that the Board possesses little evidence of rehabilitation beyond the court-ordered requirements of her probation. The Board agrees with this determination. Respondent no longer attends counseling, AA meetings, or sees a psychiatrist. Her DUI incident only happened two years ago. She still drinks alcohol, albeit at a reduced rate since her

1760, effective January 1, 2025, identifying the current version of the Guidelines as the document entitled "Disciplinary Guidelines" (Rev. 4/2024).) However, given that the Proposed Decision was issued prior to the effective date of the updated Guidelines, and was rejected by the Board shortly after the updated Guidelines took effect, the Board has determined it to be appropriate that the previous version of the Guidelines (Rev. 2/2017) be applied in this Decision After Rejection.

conviction. To ensure respondent has control of her alcohol use and to adequately protect the public, respondent's license should be placed on probation with terms including abstention from alcohol, testing, substance abuse recovery, and other standard terms and conditions. The Guidelines' recommended term of five years is appropriate.

Costs

18. The Board may recover reasonable investigation and enforcement costs of a case. (Bus. & Prof. Code, § 125.3.) In this matter, the Board incurred \$4,817.75 in enforcement costs. Those were supported by a Certification of Prosecution Costs: Declaration of Stephanie Alamo-Latif, dated October 8, 2024. The certification is accompanied by documents describing the general tasks performed, the time spent on each task, and the method of calculating the costs. Considering the issues presented in this matter, the ALJ determined that the enforcement costs of \$4,817.75 are reasonable.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. As the party bringing administrative changes and seeking discipline against respondent in this case, complainant bears the burden of proof. (*Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 113; *Brown v. City of Los Angeles* (2002) 102 Cal.App.4th 155.)

2. A pharmacy technician license is a nonprofessional license. In proceedings to revoke or otherwise impose discipline on a nonprofessional, occupational license, the standard of proof is preponderance of the evidence. (*Mann v. Dept. of Motor Vehicles* (1999) 76 Cal.App.4th 312, 319.)

Applicable Law

3. Pursuant to Business and Professions Code section 490, the Board may “suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.”

4. Business and Professions Code section 4300 provides that the Board may suspend, revoke, or place any license on probation. Business and Professions Code section 4301 provides that the Board shall take action against any holder of a license who is guilty of unprofessional conduct, including the following:

(h) The use of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, or to any other person or 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.

[¶] . . . [¶]

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

[¶] . . . [¶]

5. California Code of Regulations, title 16, section 1770, provides in pertinent part:

(a) For the purpose of denial, suspension, or revocation of a

personal or facility license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions or duties of the 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.

[¶] . . . [¶]

(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.

Cause for Discipline

6. As set forth in the analysis above, respondent was convicted of a crime substantially related to qualifications, functions, and duties of a licensee. Therefore, the ALJ found, and the Board agrees, that cause exists to discipline her license pursuant to Business and Professions Code, sections 490, subdivision (a), and 4301, subdivision (l).

7. As set forth in analysis above, respondent used alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, or to any other person or the public. Therefore, the ALJ found, and the Board agrees, that cause exists to discipline her license pursuant to Business and Professions Code, section 4301, subdivision (h).

Costs

8. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated a licensing act may be ordered to pay the reasonable costs of investigation and prosecution of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

9. Here, complainant seeks \$4,817.75 in enforcement costs. The ALJ found this to be appropriate. The ALJ further found that respondent was not successful in getting charges dismissed or reduced; that she presented a good faith belief in the merits of her position.; and that she did not raise a colorable challenge to the proposed discipline. She supports five children and her mother. Under the circumstances, the ALJ determined that the cost amount is appropriate. The ALJ further determined that respondent should be allowed to pay costs pursuant to a payment plan as approved by the Board. Under section 125.3, only an ALJ can order costs to be paid. Accordingly, the

costs of \$4,817.75 ordered by the ALJ are imposed.

Conclusion

10. As set forth in the analysis above, respondent started her path to rehabilitation. Further monitoring of her path to sobriety is necessary to protect the public health, safety, and welfare. This can be accomplished by placing her license on probation to include alcohol prohibition, testing, counseling, and other standard Board terms and conditions.

ORDER

Pharmacy Technician Registration Number TCH 135464, issued to 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; or
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report 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. **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 7698 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 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 the decision in case number 7698, 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 she has read the decision in case number 7698, 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 7698, 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 she has read

the decision in case number 7698, 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 \$4,817.75.

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 license with the Board, including any period during which suspension or probation is tolled.

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

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

10. **LICENSE SURRENDER WHILE ON PROBATION/SUSPENSION:** Following the effective date of this decision, should respondent cease 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 not previously provided to the Board within 10 days of notification by the Board that the surrender is accepted if not already provided.

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

11. **CERTIFICATION 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 (6) 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.

12. **PRACTICE REQUIREMENT—EXTENSION OF PROBATION:** Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 80 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the Board or its designee.

If respondent does not practice as a pharmacy technician in California for the minimum number of hours in any calendar month, for any reason (including vacation), respondent shall notify the Board in writing within 10 days of the conclusion of that calendar month. This notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which respondent will resume practice at the required level. Respondent shall further notify the Board in writing within 10 days following the next calendar month during which respondent practices as a pharmacy technician in California for the minimum of hours. Any failure to timely provide such notification(s)

shall be considered a violation of probation.

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

13. **VIOLATION OF PROBATION:** If respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and the Board shall provide notice to respondent that probation shall automatically be extended, until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed. The Board or its designee may post a notice of the extended probation period on its website.

If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, the Board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

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

15. **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 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 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.

16. **NOTIFICATION OF DEPARTURE:** Prior to leaving the probationary geographic area designated by the Board or its designee for a period greater than 24 hours, respondent shall notify the Board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

17. **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.

18. **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.

This Decision shall become effective at 5:00 p.m. on June 4, 2025.

It is so ORDERED on May 5, 2025.

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 written in a cursive style with a large, sweeping initial "S".

Seung W. Oh, Pharm.D.
Board President

**BEFORE THE
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DEPARTMENT OF CONSUMER AFFAIRS
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Case No. 7698

OAH No. 2024070609

ORDER SETTING DATE FOR SUBMISSION OF WRITTEN ARGUMENT

The transcripts (administrative record) of the hearing in the above-entitled matter having now become available, the parties are hereby notified of the opportunity to submit written argument in accordance with the Order Rejecting Proposed Decision dated November 8, 2024. The California State Board of Pharmacy 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.

Written argument shall be filed with the Board of Pharmacy, Attn. Lupe Baltazar, 2720 Gateway Oaks Drive, Suite 100, Sacramento, California, 95833, or susan.cappello@dca.ca.gov on or before **March 27, 2025**.

It is so ORDERED on February 25, 2025.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



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:

SARA LYNN OROZCO, Respondent

Case No. 7698

OAH No. 2024070609

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 January 10, 2025.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



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:

SARA LYNN OROZCO, Respondent

Case No. 7698

OAH No. 2024070609

PROPOSED DECISION

Brian Weisel, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on October 10, 2024, from Sacramento, California.

Stehpanie Alamo-Latif, Deputy Attorney General, represented complainant, Anne Sodergren, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Respondent Sara Lynn Orozco appeared at hearing and represented herself.

Evidence was received, and the record was held open until October 14, 2024, to allow respondent to submit additional exhibits. On October 14, 2024, respondent submitted three additional exhibits. The exhibits were marked for identification as

exhibits A through C and admitted. On October 14, 2024, the record was closed, and the matter submitted for decision.

FACTUAL FINDINGS

Jurisdictional Matters

1. On October 9, 2013, the Board issued to respondent Pharmacy Technician License number TCH 135464 (license). The license will expire on January 31, 2025, unless renewed or revoked.

2. On April 15, 2024, complainant, in her official capacity, signed and filed the Accusation. Complainant seeks to discipline respondent's license based upon her criminal conviction and her dangerous consumption of alcohol.

3. Respondent timely filed a Notice of Defense. The matter was set for an evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Criminal Conviction

4. On December 13, 2023, in the Superior Court of California, County of Fresno, respondent was convicted on her plea of nolo contendere of a violation of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol concentration (BAC) of 0.08 percent or more), a misdemeanor. The court sentenced respondent to three years of informal probation, 15 days in jail to be completed in the court's work program, a driving under the influence (DUI) class, and fines and fees.

5. The circumstances of respondent's conviction occurred on October 7, 2022. Respondent drove along a state highway and veered left over the broken yellow lines. Her car then veered back to the right against the edge of the lane on the right-side shoulder and veered back into the center of the lane. A California Highway Patrol officer witnessed the above and initiated a traffic stop of respondent's vehicle. Respondent admitted to the officer she consumed alcohol before driving. She smelled of alcohol and her eyes appeared red and watery. Respondent performed a series of field sobriety tests that indicated alcohol impairment. Respondent provided two breath samples which confirmed her BAC to be 0.24 and 0.23 percent. Respondent was arrested without further incident.

Respondent's Evidence

6. Respondent works in a substance abuse facility in Corcoran State Prison. She fills prescriptions and delivers them to nurses on site. Respondent loves her job and working with her colleagues. She notified her employer about the conviction and this pending Accusation before the Board.

7. Respondent admitted she drank alcohol and drove her vehicle. From 2019 to 2022, respondent experienced several difficulties in her personal life. Her prior partner abused her. Respondent obtained a restraining order, but her partner violated it multiple times. Although the relationship ended, respondent still "tried to process things" and "had a hard time." She continues an outstanding family law case with her ex-partner regarding custody of their child.

8. On the date of the incident, respondent argued with her prior partner and became upset. She stopped at a liquor store on her way to Walmart. She drank vodka in the Walmart parking lot. She does not know how much alcohol she

consumed in the parking lot. She also drove to Buffalo Wild Wings, where she ordered some food and consumed "a couple drinks." Respondent drove away from the restaurant and was stopped by law enforcement and arrested for DUI.

9. Respondent began attending Alcoholics Anonymous (AA) classes shortly after her arrest, before the court ordered them as a term of her probation. Respondent learned she had an alcohol abuse problem. She now knows "alcohol wasn't the solution, it was the problem." She stopped attending AA after a few months as she had "learned everything [she] could from AA." She still drinks alcohol occasionally. She believes her last drink was in July of 2024.

10. Respondent met with a psychiatrist and a counselor intermittently from 2019 through 2023. She started taking medication for depression. Eventually respondent was assigned a new counselor. Respondent did not feel comfortable with the new counselor, so she stopped attending counseling. She is the sole provider for her disabled mother and five children.

11. Respondent completed her DUI class and her work program. She continues to make payments on her court fines. Her probation expires in 2026. She asks that her license not be placed on probation as she feels that testing and reporting requirements would be "very invasive." However, she would comply with any Board probationary terms to maintain her license.

Analysis

12. Respondent committed a crime substantially related to the qualifications, functions, and duties of a licensee. Respondent's use of alcohol and decision to drive a vehicle show poor judgment, and a willingness to place herself and the public at risk. A pharmacy technician handles sensitive drugs and is required to show sound judgment

to adequately serve the public. Respondent's conviction and excessive use of alcohol evidence present or potential unfitness to perform the functions or duties of a pharmacy technician consistent with the public health, safety, and welfare. Thus, her criminal conduct and use of alcohol in excess are unprofessional conduct. Therefore, complainant established cause to discipline respondent's license.

13. The determination whether to discipline a license should be made only after consideration of the conduct of the licensee and consideration of any factors introduced in justification, mitigation, aggravation, and rehabilitation. The licensee "should be permitted to introduce evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation." (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449; *Brandt v. Fox* (1979) 90 Cal.App.3d 737, 747.)

14. The Board adopted Disciplinary Guidelines (Guidelines) setting forth recommended levels of license discipline. (Cal. Code Regs., tit. 16, § 1760.) According to the Guidelines, respondent's conviction of a crime substantially related to practice as a pharmacy technician and dangerous use of alcohol qualify as a Category II offense. The minimum recommended discipline is five years' probation with appropriate terms. The maximum is revocation.

15. In California Code of Regulations, title 16, section 1769, subdivision (c), the Board has set forth factors to be considered in reaching a decision on appropriate discipline. The following criteria for evaluating the rehabilitation of a licensee when considering the suspension or revocation of a license based upon a conviction: nature and gravity of the offense; total criminal record; time elapsed since commission of the offense; whether the licensee has complied with any terms of probation; and evidence of rehabilitation.

16. Applying the relevant factors here, respondent's BAC was quite high, and her conviction is recent. She is still on criminal probation. She completed her DUI class and attended some AA classes and counseling. She continues to drink alcohol occasionally. She has no prior discipline and continues to work as a pharmacy technician.

17. When all the evidence is considered, respondent initiated the process of rehabilitation. However, the Board possesses little evidence of rehabilitation beyond the court-ordered requirements of her probation. Respondent no longer attends counseling, AA meetings, or sees a psychiatrist. Her DUI incident only happened two years ago. She still drinks alcohol, albeit at a reduced rate since her conviction. To ensure respondent has control of her alcohol use and to adequately protect the public, respondent's license should be placed on probation with terms including abstention from alcohol, testing, substance abuse recovery, and other standard terms and conditions. The Guidelines' recommended term of five years is appropriate.

Costs

18. The Board may recover reasonable investigation and enforcement costs of a case. (Bus. & Prof. Code, § 125.3.) In this matter, the Board incurred \$4,817.75 in enforcement costs. Those were supported by a Certification of Prosecution Costs: Declaration of Stephanie Alamo-Latif, dated October 8, 2024. The certification is accompanied by documents describing the general tasks performed, the time spent on each task, and the method of calculating the costs. Considering the issues presented in this matter, the enforcement costs of \$4,817.75 are reasonable.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. A pharmacy technician license is a nonprofessional license. In proceedings to revoke or otherwise impose discipline on a nonprofessional, occupational license, the standard of proof is preponderance of the evidence. (*Mann v. Dept. of Motor Vehicles* (1999) 76 Cal.App.4th 312, 319.)

Applicable Law

2. Pursuant to Business and Professions Code section 490, the Board may “suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.”

3. Business and Professions Code section 4300 provides that the Board may suspend, revoke, or place any license on probation. Business and Professions Code section 4301 provides that the Board shall take action against any holder of a license who is guilty of unprofessional conduct, including the following:

(h) The use of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, or to any other person or 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.

[¶] . . . [¶]

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

[¶] . . . [¶]

4. California Code of Regulations, title 16, section 1770, provides in pertinent part:

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

[¶] . . . [¶]

(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.

Cause for Discipline

5. As set forth in the analysis above, respondent was convicted of a crime substantially related to qualifications, functions, and duties of a licensee. Therefore, cause exists to discipline her license pursuant to Business and Professions Code, sections 490, subdivision (a), and 4301, subdivision (l).

6. As set forth in analysis above, respondent used alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, or to any other person or the public. Therefore, cause exists to discipline her license pursuant to Business and Professions Code, section 4301, subdivision (h).

Costs

7. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated a licensing act may be ordered to pay the reasonable costs of investigation and prosecution of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

8. Here, complainant seeks \$4,817.75 in enforcement costs, which is appropriate. Respondent was not successful in getting charges dismissed or reduced. She presented a good faith belief in the merits of her position. She did not raise a

colorable challenge to the proposed discipline. She supports five children and her mother. The cost amount is appropriate. Respondent should be allowed to pay costs pursuant to a payment plan as approved by the Board.

Conclusion

9. As set forth in the analysis above, respondent started her path to rehabilitation. Further monitoring of her path to sobriety is necessary to protect the public health, safety, and welfare. This can be accomplished by placing her license on probation to include alcohol prohibition, testing, counseling, and other standard Board terms and conditions.

ORDER

Pharmacy Technician Registration Number TCH 135464, issued to 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; or
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report 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. **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 7698 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 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 the decision in case number 7698, 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 she has read the decision in case number 7698, 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 7698, 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 she has read the decision in case number 7698, 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 \$4,817.75.

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.

9. **STATUS OF LICENSE:** Respondent shall, at all times while on probation, maintain an active, current pharmacy technician license with the Board, including any period during which suspension or probation is tolled.

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

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

10. **LICENSE SURRENDER WHILE ON PROBATION/SUSPENSION:** Following the effective date of this decision, should respondent cease 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 not previously provided to the Board within 10 days of notification by the Board that the surrender is accepted if not already provided.

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

11. **PRACTICE REQUIREMENT—EXTENSION OF PROBATION:** Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 80 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the Board or its designee.

If respondent does not practice as a pharmacy technician in California for the minimum number of hours in any calendar month, for any reason (including vacation), respondent shall notify the Board in writing within 10 days of the conclusion of that calendar month. This notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and

the anticipated date(s) on which respondent will resume practice at the required level. Respondent shall further notify the Board in writing within 10 days following the next calendar month during which respondent practices as a pharmacy technician in California for the minimum 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.

12. **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.

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

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 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 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. **NOTIFICATION OF DEPARTURE:** Prior to leaving the probationary geographic area designated by the Board or its designee for a period greater than 24 hours, respondent shall notify the Board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

16. **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.

17. **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.

DATE: November 8, 2024

Brian Weisel

Brian Weisel (Nov 8, 2024 16:38 PST)

BRIAN WEISEL

Administrative Law Judge

Office of Administrative Hearings

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

13 In the Matter of the Accusation Against:

Case No. 7698

14 **SARA LYNN OROZCO**
15 **360 E. Houston**
Coalinga, CA 93210

ACCUSATION

16 **Pharmacy Technician License No. 135464**

17 Respondent.

18
19
20 **PARTIES**

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

23 2. On or about October 9, 2013, the Board of Pharmacy issued Pharmacy Technician
24 License Number 135464 to Sara Lynn Orozco (Respondent). The Pharmacy Technician License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 January 31, 2025, unless renewed.

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28 \\\

1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Pharmacy (Board), under the
3 authority of the following laws. All section references are to the Business and Professions Code
4 (Code) unless otherwise indicated.

5 4. Code section 4300 states, in pertinent part, that every license issued may be
6 suspended or revoked.

7 5. Code section 4300.1 states:

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

13 **STATUTORY AND REGULATORY PROVISIONS**

14 6. Code section 490 states, in pertinent part:

15 (a) In addition to any other action that a board is permitted to take against a licensee, a
16 board may suspend or revoke a license on the ground that the licensee has been convicted of a
17 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
18 or profession for which the license was issued.

19 7. Code section 4301 states, in pertinent part:

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

22 ...

23 (h) The use alcoholic beverages to the extent or in a manner as to be dangerous or injurious
24 to oneself, or to any other person or to the public, or to the extent that the use impairs the ability
25 of the person to conduct with safety to the public the practice authorized by the license.

26 ...

27 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
28 of a licensee under this chapter.

1 8. California Code of Regulations (Cal. Code Regs.), title 16, section 1770 states:

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

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

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

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

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

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

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

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

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

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

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

COST RECOVERY

9. Code section 125.3 provides, 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, with failure of the licentiate to comply subjecting the license to not being
renewed or reinstated.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction)**

3 10. Respondent is subject to discipline under Code sections 490, subdivision (a), and
4 4301, subdivision (l), on the grounds of unprofessional conduct, and Cal. Code Regs., title 16,
5 section 1770, in that on or about December 13, 2023, in the case of *People v. Sarah Lynn Orozco*
6 (Superior Court, Fresno County Case No. M23901116), Respondent was convicted on her plea of
7 nolo contendere of violation of Vehicle Code section 23152, subdivision (b) (driving with blood
8 alcohol content (BAC) of .08% or more), a misdemeanor. Respondent stipulated that her BAC
9 was .19%. Respondent was granted 3 years conditional probation, with terms and conditions,
10 including completion of an adult offender work program, completion of a three month alcohol
11 program, and payment of fines and fees. The facts and circumstances are as follows: On or about
12 October 7, 2022, at approximately 1817 hours, an officer with the California Highway Patrol
13 observed the vehicle which Respondent was driving veering back and forth on the roadway. The
14 officer also observed that the vehicle's brake light was not fully illuminating. An enforcement
15 stop was conducted. While speaking to Respondent, the officer smelled the strong odor of
16 alcohol coming from inside the vehicle, and observed that Respondent's eyes were red/watery.
17 Respondent admitted to consuming alcohol prior to driving the vehicle. The officer conducted a
18 series of field sobriety tests, which Respondent was unable to perform as instructed. At
19 approximately 1837 hours and 1840 hours, Respondent submitted to breath tests, which resulted
20 in readings of .24/.23 BAC. Respondent was arrested for driving under the influence of alcohol.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Dangerous Use of Alcohol)**

23 11. Respondent is subject to discipline under Code section 4301, subdivision (h), on the
24 grounds of unprofessional conduct, in that on or about October 7, 2022, Respondent used
25 alcoholic beverages to an extent or in a manner dangerous or injurious to herself and the public
26 when she drove a vehicle with a BAC of .19%. The facts and circumstances are more fully set
27 forth above in paragraph 10.

28 \\\

1 **OTHER MATTERS**

2 12. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Technician
3 License Number 135464, issued to Sara Lynn Orozco, Sara Lynn Orozco shall be prohibited from
4 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
5 licensee for five years if Pharmacy Technician License Number 135464, is placed on probation or
6 until said permits are reinstated if revoked.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician License Number 135464, issued to
- 11 Sara Lynn Orozco;
- 12 2. Ordering Sara Lynn Orozco to pay the Board of Pharmacy the reasonable costs of the
- 13 investigation and enforcement of this case, pursuant to Business and Professions Code section
- 14 125.3; and,
- 15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: 4/15/2024

17 Sodergren,
Anne@DCA  Digitally signed by
Sodergren, Anne@DCA
Date: 2024.04.15 19:12:59
-07'00'

18 ANNE SODERGREN
19 Executive Officer
20 Board of Pharmacy
21 Department of Consumer Affairs
22 State of California
23 *Complainant*

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