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

12 In the Matter of the Accusation Against:

Case No. 6726

13 **ASHLEEN AMRISHTA PRASAD**
14 **362 W. Barstow Avenue, Apt. 103**
15 **Clovis, CA 93612**

DEFAULT DECISION AND ORDER

16 **Pharmacy Technician License No. TCH**
17 **145719**

[Gov. Code, §11520]

18 Respondent.

19
20 **FINDINGS OF FACT**

21 1. On or about August 26, 2019, Complainant Anne Sodergren, in her official capacity
22 as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
23 filed Accusation No. 6726 against Ashleen Amrishta Prasad (Respondent) before the Board of
24 Pharmacy. (Accusation attached as Exhibit A.)

25 2. On or about January 20, 2015, the Board of Pharmacy (Board) issued Pharmacy
26 Technician License No. TCH 145719 to Respondent. The Pharmacy Technician License was in
27 full force and effect at all times relevant to the charges brought in Accusation No. 6726 and will
28 expire on May 31, 2020, unless renewed.

1 3. On or about August 28, 2019, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 6726, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is: 362 W. Barstow Avenue, Apt. 103, Clovis, CA 93612.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505(c) and/or Business and Professions Code section 124.

9 5. Government Code section 11506(c) states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the respondent
11 files a notice of defense . . . and the notice shall be deemed a specific denial of all
12 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
13 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
14 discretion may nevertheless grant a hearing.

15 6. The Board takes official notice of its records and the fact that Respondent failed to
16 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
17 waived her right to a hearing on the merits of Accusation No. 6726.

18 7. California Government Code section 11520(a) states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense . . . or to appear at
20 the hearing, the agency may take action based upon the respondent's express
21 admissions or upon other evidence and affidavits may be used as evidence without
22 any notice to respondent

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 6726,
28 finds that the charges and allegations in Accusation No. 6726, are separately and severally, found
to be true and correct by clear and convincing evidence.

 9. The Board finds that the actual costs for Investigation and Enforcement are \$1,670.00
as of October 14, 2019.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Ashleen Amrishta Prasad has
3 subjected her Pharmacy Technician License No. TCH 145719 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
6 License based upon the following violations alleged in the Accusation which are supported by the
7 evidence contained in the Default Decision Investigatory Evidence Packet in this case:

8 a. Respondent is subject to discipline pursuant to Code sections 4301(1) and 490 on the
9 grounds of unprofessional conduct.

10 b. Respondent is subject to discipline pursuant to Code section 4301(h), on the grounds
11 of unprofessional conduct.

12 **ORDER**

13 IT IS SO ORDERED that Pharmacy Technician License No. TCH 145719, issued to
14 Respondent Ashleen Amrishta Prasad, is revoked.

15 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
16 written motion requesting that the Decision be vacated and stating the grounds relied on within
17 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
18 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

19 This Decision shall become effective at 5:00 p.m. on January 23, 2020.

20 It is so ORDERED on December 24, 2019.

21 BOARD OF PHARMACY
22 DEPARTMENT OF CONSUMER AFFAIRS
23 STATE OF CALIFORNIA

24 By



25 Greg Lippe
26 Board President

26 14185985.DOCX
DOJ Matter ID:SA2019102452

27 Attachment:
28 Exhibit A: Accusation

Exhibit A

Accusation

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

12 In the Matter of the Accusation Against:

Case No. 6726

13 **ASHLEEN AMRISHTA PRASAD**
14 **362 W. Barstow Avenue, Apt. 103**
Clovis, CA 93612

ACCUSATION

15 **Pharmacy Technician License**
16 **No. TCH 145719**

17 Respondent.
18

19
20 Anne Sodergren ("Complainant") alleges:

21 **PARTIES**

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

24 2. On or about January 20, 2015, the Board of Pharmacy issued Pharmacy Technician
25 License Number TCH 145719 to Ashleen Amrishta Prasad (Respondent). The Pharmacy
26 Technician License was in full force and effect at all times relevant to the charges brought herein
27 and will expire on May 31, 2020, unless renewed.

28 ///

JURISDICTION

3. Business and Professions Code (“Code”) section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

4. Code section 4300.1 states:

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

STATUTORY PROVISIONS

5. Code section 4301 states, in pertinent part:

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

(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.

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

6. Code section 490 provides:

(a) In addition to any other action that a board is permitted to take against a licensee, a 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.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken 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.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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 Crime)

8. Respondent is subject to discipline pursuant to Code sections 4301(l) and 490 on the grounds of unprofessional conduct, in that, on or about March 25, 2019, in the case of *People v. Ashleen Amrishta Prasad, aka Ashleen Prasad*, (Super. Ct. Fresno County, 2019, Case No. M19912762), Respondent was convicted by the Court on her plea of nolo contendere to a misdemeanor violation of Vehicle Code section 23152(b) (driving a vehicle while having a blood alcohol content of .08 percent or more) with an enhancement of Vehicle Code section 23578 (driving a vehicle while having a blood alcohol content of .15 percent or more). The crime is substantially related to the qualifications, functions, or duties of a pharmacy technician.

a. The circumstances of the crime were that on or about December 25, 2018, an officer with the California Highway Patrol responded to a request for DUI evaluation. Upon arrival, the officer observed a mailbox belonging to a residence knocked over because of Respondent colliding with it in her vehicle. After a series of Pre-Field Sobriety Test questions, it was determined that Respondent was driving the vehicle while under the influence of alcohol. Respondent was arrested and taken to the Fresno County Jail where it was later determined Respondent had a blood alcohol level of .24%.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

Respondent is subject to discipline pursuant to Code section 4301(h), on the grounds of unprofessional conduct, in that Respondent consumed alcohol on or about December 25, 2018, to the extent or in a manner as to be dangerous or injurious to oneself and to the public, as more particularly set forth above in paragraph 8.

PRA YER

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

1. Revoking or suspending Pharmacy Technician License Number TCH 145719, issued to Ashleen Amrishta Prasad;
2. Ordering Ashleen Amrishta Prasad to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: August 26, 2019

Anne Sodergren

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