

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

In the Matter of the Statement of Issues Against:

LEONARDO ALVARADO,

Respondent.

Agency No. 7888

OAH No. 2024100771

DECISION AFTER REJECTION

Sandy Yu, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by videoconference on January 9, 2025.

Christine J. Lee, Deputy Attorney General, represented complainant Anne Sodergren, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Respondent Leonardo Alvarado represented himself.

Oral and documentary evidence was received into evidence. The record closed and the matter was submitted for decision at the conclusion of the hearing.

During the ALJ's review of the documentary evidence, she redacted respondent's personal identifying information (i.e., birth date, California driver's license number, and social security number) from Exhibits 4 and 7.

The ALJ issued a Proposed Decision on February 7, 2025. On April 15, 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 June 13, 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.

SUMMARY

Complainant seeks to deny respondent's application for a pharmacy technician license because respondent sustained a criminal conviction for driving under the influence of alcohol in March 2024. This conviction constitutes cause to deny respondent a license. At hearing, respondent presented evidence of the changes he has made to prevent a reoccurrence of such behavior in the future. Given respondent's

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progress towards rehabilitation, the ALJ found, and the Board agrees, that issuing respondent a probationary pharmacy technician license would not be against public interest as the imposed terms and conditions would ensure public safety.

FACTUAL FINDINGS

Jurisdictional Matters

1. On March 22, 2024, the Board received respondent's March 14, 2024 application for a pharmacy technician license.
2. On May 23, 2024, the Board denied respondent's application. On June 10, 2024, respondent appealed the denial.
3. On September 18, 2024, complainant, acting in her official capacity as Executive Officer of the Board, filed the Statement of Issues, alleging respondent's application was subject to denial under Business and Professions Code section 480, subdivision (a)(1), based on his March 5, 2024 conviction for driving while having a blood alcohol content (BAC) of 0.08 percent or more.
4. All jurisdictional requirements are satisfied.

March 5, 2024 Conviction

5. On March 5, 2024, respondent was convicted of driving while having a BAC of 0.08 percent or more in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor (March 5, 2024 DUI conviction). (Super. Ct., San Bernardino County, 2024, No. MWV24003173.) The court suspended the proceedings and placed respondent on summary probation for three years with terms and conditions,

including (1) completion of a nine-month offender impaired driver program; and (2) payment of fines and fees.

6. The facts and circumstances underlying respondent's conviction are that on June 17, 2023, respondent drove while intoxicated.

7. A San Bernardino County Sheriff's officer conducted a traffic stop after observing respondent's vehicle running two stop signs and traveling on the wrong side of the road against traffic. While speaking with respondent, the officer observed respondent had red, watery eyes, and smelled the odor of alcoholic beverages on his breath. Respondent admitted to drinking alcohol before driving his car. Respondent also submitted to a preliminary alcohol screening (breathalyzer test), which yielded a BAC of 0.226 percent. Respondent was subsequently arrested for driving under the influence of alcohol.

Respondent's Evidence

8. Respondent has been a certified nursing assistant (CNA) at City of Hope for four years. As a CNA, he helps patients with daily activities and supports nurses. Before that, he worked in the food department at City of Hope for three years.

9. Respondent would like to obtain a new pharmacy technician license to further his career in the medical field because he loves helping others recover. To that end, respondent completed the pharmacy technician program at Hacienda La Puente Unified School District on February 16, 2024.

10. In the letter of explanation respondent submitted with his March 14, 2024 application, regarding the June 17, 2023 incident, respondent explained that he had attended a graduation party for a close friend and made the "regrettable decision

to drive" back to his home. (Exh. 4, p. A30.) Respondent was stopped at a police checkpoint on a one-way street. When asked by the officer if he had been drinking, respondent claimed he responded truthfully, participated in a field sobriety test, and provided a breathalyzer test, which indicated "a blood alcohol content of 0.08., the legal limit." (*Ibid.*)

11. At hearing, when respondent was questioned about the different accounts in his March 14, 2024 letter and the police report, he explained that he had not remembered what exactly happened on the day of his arrest but acknowledged he was fully at fault for his conduct. Respondent was remorseful for his conduct. He believes he has learned his lesson and no longer drives after consuming alcoholic beverages. Respondent completed the court-ordered nine-month offender impaired driver program and has been compliant with the terms and conditions of his probation.

12. To prevent a recurrence of any similar behaviors, respondent has a support system in place, including his Alcoholics Anonymous group, his friends, and his mom. Respondent has no subsequent arrests or criminal convictions.

13. Respondent submitted a character reference letter dated June 3, 2024, from Yecsenia Delgado Lorenzo, who has known respondent for over a year and was respondent's school counselor at Hacienda La Puente Unified School District. According to Ms. Delgado Lorenzo, respondent's "commitment to his studies and his ability to balance his responsibilities as a CNA reflect his strong organizational skills and determination to succeed." (Exh. A, p. B1.) Ms. Delgado Lorenzo noted "[respondent's] dedication, professionalism and positive demeanor make him an outstanding candidate who is well-prepared to contribute meaningfully to the field." (*Ibid.*)

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The burden of proof is on the applicant to establish that he is entitled to the license. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1221.)

2. The standard of proof is a preponderance of the evidence. (Evid. Code, § 115.) Preponderance of the evidence means evidence that has more convincing force than that opposed to it. (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325.)

Governing Law

3. Pursuant to Business and Professions Code section 480, subdivision (a)(1), the Board may deny a license on the grounds that the applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of a licensee, for which the application was made.

4. A crime or act is 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. (Cal. Code Regs., tit. 16, (Reg.) § 1770.)

5. Substantially related crimes include a conviction for driving under the influence of alcohol. (Reg., § 1770, subd. (c)(5).)

Cause for Denial of Application

6. Pursuant to Business and Professions Code section 480, subdivision (a)(1), in conjunction with Regulations 1770, subdivision (a), the ALJ found, and the Board agrees, that cause exists to deny respondent's application based on respondent's March 5, 2024 DUI conviction for violating Vehicle Code section 23152, subdivision (b).

Level of Discipline

7. Having determined respondent has been convicted of a crime that is substantially related to the qualifications, functions, or duties of a licensee, it next remains to be determined whether respondent has been sufficiently rehabilitated so that his licensure would not adversely affect the public health, safety and welfare. Respondent bears the burden of establishing his rehabilitation. (Evid. Code, §§ 115 and 500.)

8. The Board has developed criteria to evaluate whether an applicant who has been sufficiently rehabilitated when an applicant has not completed the criminal sentence at issue. The relevant criteria, which can be found at Regulations 1769, subdivision (b)(2), includes consideration of the following: (a) The nature and gravity of the crime or crimes; (b) evidence of any misconduct or crime committed subsequent to the acts or crimes under consideration as grounds for denial; (c) the time that has elapsed since commission of the acts or offenses; (d) whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant; and (e) any evidence of rehabilitation submitted by the applicant as outlined in the Board's Disciplinary Guidelines (rev. 4/2024) (Guidelines).

9. The Guidelines provide examples of appropriate evidence demonstrating rehabilitative efforts and competency. These include recent, dated, written statements or performance evaluations from employers or supervisors; recent, dated letters from licensed treatment providers regarding respondent's participation in a rehabilitation or recovery program; recent, dated letters describing respondent's participation in support groups; recent, dated laboratory analyses or drug screen reports confirming abstinence from drugs and alcohol; recent, dated physical examination/assessment report(s) by a California licensed health care practitioner confirming the absence of any physical impairment that would prohibit the respondent from practicing safely; recent, dated letters from probation or parole officers regarding respondent's participation in and/or compliance with terms and conditions of probation or parole; and recent, dated letters from persons familiar with respondent in either a personal or professional capacity regarding their knowledge of respondent's character, rehabilitation, and other pertinent facts. (Guidelines, p. 4.)

10. Here, because respondent's crime threatened public safety, his alcohol-related misconduct and resulting conviction are serious but did not result in injury to any individual or property.

11. Even though respondent remains on probation until March 2027, respondent has been compliant with the terms and conditions of his criminal probation. Respondent completed the nine-month offender impaired driver program.

12. To respondent's credit, respondent took full responsibility for his actions and expressed genuine remorse for his past actions, which is an essential step toward rehabilitation. (*Seide v. Com. of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Although mere remorse is not sufficient by itself to demonstrate rehabilitation, respondent has demonstrated his rehabilitation through changes he has made since his June 17, 2023

arrest. Respondent had made changes in his social relationships and activities. He has a strong support system in place to prevent the recurrence of such lapse in judgment. He completed the pharmacy technician program in 2024.

13. It is also important to note that though he has not been licensed as a pharmacy technician, respondent has been working as a CNA for the last four years, and no disciplinary action has been taken against his certification by the California Department of Public Health for his misconduct. Based upon these factors, respondent's single alcohol-related conviction appears to be an isolated incident, which is unlikely to reoccur.

14. Public protection is the Board's highest priority when excising its licensing, regulatory, and disciplinary functions. (Bus. & Prof. Code, § 4001.1.) When all the evidence is considered in light of the Board's rehabilitation criteria, the ALJ found, and the Board agrees, that respondent established sufficient rehabilitation to receive a probationary pharmacy technician license, with terms and conditions designed to protect the public, which includes abstention, drug and alcohol testing, and attendance at AA or similar support group. In addition, given the recency of respondent's conviction, a longer probation term of five years is appropriate.

ORDER

Upon satisfaction of all statutory and regulatory requirements for issuance of a pharmacy technician license, a pharmacy technician license shall be issued to respondent Leonardo Alvarado and immediately revoked; the order of 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, information, or indictment for violation of any state and federal 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.

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. 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.

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3. INTERVIEW WITH THE BOARD

Upon receipt of reasonable prior notice, respondent shall participate as directed for interviews with the Board, at such intervals and locations as are determined by the Board. 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 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 their 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 7888, OAH case No. 2024100771, 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 their employer(s), and the

name(s), telephone number(s), and email address(es) of all of their 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, and the last day worked. Respondent shall sign and return to the Board a written consent authorizing the Board 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, 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) their direct supervisor, (b) their pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of their employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 7888, OAH Case No. 2024100771, and the terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the Board in writing within 15 days of the change acknowledging that they have read the decision in case number 7888, OAH Case No. 2024100771, and the terms and conditions imposed thereby.

If respondent works for or is employed by or through an employment service,

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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 7888, OAH Case No. 2024100771, 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 they have read the decision in case number 7888, OAH Case No. 2024100771, 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 as directed 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, email address, or phone number, within 10 days of the change, shall be considered a violation of probation.

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

8. 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.

9. 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 their license, including any indicia of licensure issued by the Board, along with a request to surrender the license. The Board shall

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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 their 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.

10. CERTIFICATION PRIOR TO RESUMING WORK

Respondent shall maintain an active, current certification as defined by Business and Professions Code section 4202, subdivision (a)(4), for the entire period of probation, and shall submit proof of re-certification or renewal of certification to the Board within ten (10) days of receipt. Failure to maintain active, current certification or to timely submit proof of same shall be considered a violation of probation.

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 40 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient

employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the Board.

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 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 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 indicating successful completion of probation, respondent's license will be fully restored.

14. DRUG AND ALCOHOL TESTING

Respondent, at their own expense, shall participate in testing as directed by the Board 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. All testing must be pursuant to an observed testing protocol, unless respondent is informed otherwise in writing by the Board. Respondent may be required to participate in testing for the entire probation period and frequency of testing will be determined by the Board.

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;

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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, 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 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, and 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 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 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 they 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 refrain from alcohol; 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 drug that contains alcohol, without a prescription, 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, or drug that contains alcohol, without a valid prescription, 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 shall inform respondent of the suspension and inform them 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 any Board-licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not exercise any of the privileges conveyed by the Board 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 any Board-licensed premises.

Failure to comply with any such suspension shall be considered a violation of probation. Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

15. ABSTAIN FROM DRUGS AND ALCOHOL

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a necessary part of treatment. Respondent shall ensure that they are 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. Respondent shall sign an acknowledgement confirming receipt of a list of examples of prohibited substances.

16. ATTEND SUBSTANCE ABUSE RECOVERY RELAPSE PREVENTION AND SUPPORT GROUPS

Within 30 days of the effective date of this decision, respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board. Respondent must attend the number of group meetings per week or month directed by the Board, 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 After Rejection shall become effective at 5:00 p.m. on August 6, 2025.

It is so ORDERED on July 7, 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 fluid and cursive, with a large initial "S" and "O".

Seung W. Oh, Pharm.D.
Board President

**BEFORE THE
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In the Matter of the Statement of Issues Against:

LEONARDO ALVARADO,

Respondent

Case No. 7888

OAH No. 2024100771

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 April 15, 2025. 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. Susan Cappello, 2720 Gateway Oaks Drive, Suite 100, Sacramento, California, 95833, or susan.cappello@dca.ca.gov on or before **June 13, 2025**.

It is so ORDERED on May 28, 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 fluid and cursive, with the first name "Seung" and last name "Oh" clearly visible.

Seung W. Oh, Pharm.D.
Board President

**BEFORE THE
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DEPARTMENT OF CONSUMER AFFAIRS
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In the Matter of the Statement of Issues Against:

LEONARDO ALVARADO,

Respondent

Case No. 7888

OAH No. 2024100771

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 April 15, 2025.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

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Seung W. Oh, Pharm.D.
Board President

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Respondent.

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OAH No. 2024100771

PROPOSED DECISION

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Christine J. Lee, Deputy Attorney General, represented complainant Anne Sodergren, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Respondent Leonard Alvarado represented himself.

Oral and documentary evidence was received into evidence. The record closed and the matter was submitted for decision at the conclusion of the hearing.

During the ALJ's review of the documentary evidence, she redacted respondent's personal identifying information (i.e., birth date, California driver's license number, and social security number) from Exhibits 4 and 7.

SUMMARY

The Board seeks to deny respondent's application for a pharmacy technician license because respondent sustained a criminal conviction for driving under the influence of alcohol in March 2024. This conviction constitutes cause to deny respondent a license. At hearing, respondent presented evidence of the changes he has made to prevent a reoccurrence of such behavior in the future. Given respondent's progress towards rehabilitation, issuing respondent a probationary pharmacy technician license would not be against public interest as the imposed terms and conditions would ensure public safety.

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2. On May 23, 2024, the Board denied respondent's application. On June 10, 2024, respondent appealed the denial.
3. On September 18, 2024, complainant, acting in her official capacity as Executive Officer of the Board, filed the Statement of Issues, alleging respondent's application was subject to denial under Business and Professions Code section 480,

subdivision (a)(1), based on his March 5, 2024 conviction for driving while having a blood alcohol content (BAC) of 0.08 percent or more.

4. All jurisdictional requirements are satisfied.

March 5, 2024 Conviction

5. On March 5, 2024, respondent was convicted of driving while having a BAC of 0.08 percent or more in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor (March 5, 2024 DUI conviction). (Super. Ct., San Bernardino County, 2024, No. MWV24003173.) The court suspended the proceedings and placed respondent on summary probation for three years with terms and conditions, including (1) completion of a nine-month offender impaired driver program; and (2) payment of fines and fees.

6. The facts and circumstances underlying respondent's conviction are that on June 17, 2023, respondent drove while intoxicated.

7. A San Bernardino County Sheriff's officer conducted a traffic stop after observing respondent's vehicle running two stop signs and traveling on the wrong side of the road against traffic. While speaking with respondent, the officer observed respondent had red, watery eyes, and smelled the odor of alcoholic beverages on his breath. Respondent admitted to drinking alcohol before driving his car. Respondent also submitted to a preliminary alcohol screening (breathalyzer test), which yielded a BAC of 0.226 percent. Respondent was subsequently arrested for driving under the influence of alcohol.

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Respondent's Evidence

8. Respondent has been a certified nursing assistant (CNA) at City of Hope for four years. As a CNA, he helps patients with daily activities and supports nurses. Before that, he worked in the food department at City of Hope for three years.

9. Respondent would like to obtain a new pharmacy technician license to further his career in the medical field because he loves helping others recover. To that end, respondent completed the pharmacy technician program at Hacienda La Puente Unified School District on February 16, 2024.

10. In the letter of explanation respondent submitted with his March 14, 2022 application, regarding the June 17, 2023 incident, respondent explained that he had attended a graduation party for a close friend and made the "regrettable decision to drive" back to his home. (Exh. 4, p. A30.) Respondent was stopped at a police checkpoint on a one-way street. When asked by the officer if he had been drinking, respondent claimed he responded truthfully, participated in a field sobriety test, and provided a breathalyzer test, which indicated "a blood alcohol content of 0.08., the legal limit." (*Ibid.*)

11. At hearing, when respondent was questioned about the different accounts in his March 14, 2022 letter and the police report, he explained that he had not remembered what exactly happened on the day of his arrest but acknowledged he was fully at fault for his conduct. Respondent was remorseful for his conduct. He believes he has learned his lesson and no longer drives after consuming alcoholic beverages. Respondent completed the court-ordered nine-month offender impaired driver program and has been compliant with the terms and conditions of his probation.

12. To prevent a recurrence of any similar behaviors, respondent has a support system in place, including his Alcohol Anonymous group, his friends, and his mom. Respondent has no subsequent arrests or criminal convictions.

13. Respondent submitted a character reference letter dated June 3, 2024, from Yecsenia Delgado Lorenzo, who has known respondent for over a year and was respondent's school counselor at Hacienda La Puente Unified School District. According to Ms. Delgado Lorenzo, respondent's "commitment to his studies and his ability to balance his responsibilities as a CNA reflect his strong organizational skills and determination to succeed." (Exh. A, p. B1.) Ms. Delgado Lorenzo noted "[respondent's] dedication, professionalism and positive demeanor make him an outstanding candidate who is well-prepared to contribute meaningfully to the field." (*Ibid.*)

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The burden of proof is on the applicant to establish that he is entitled to the license. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1221.)

2. The standard of proof is a preponderance of the evidence. (Evid. Code, § 115.) Preponderance of the evidence means evidence that has more convincing force than that opposed to it. (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325.)

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Governing Law

3. Pursuant to Business and Professions Code section 480, subdivision (a)(1), the Board may deny a license on the grounds that the applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of a licensee, for which the application was made.

4. A crime or act is considered substantially related to the qualifications, functions, or duties of a licensee if to a substantial degree it evidences present or potential unfitness of a licensee to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare. (Cal. Code Regs., tit. 16, (Reg.) § 1770.)

5. Substantially related crimes include a conviction for driving under the influence of alcohol. (Reg., § 1770, subd. (c)(5).)

Cause for Denial of Application

6. Pursuant to Business and Professions Code section 480, subdivision (a)(1), in conjunction with Regulations 1770, subdivision (a), cause exists to deny respondent's application based on respondent's March 5, 2024 DUI conviction for violating Vehicle Code section 23152, subdivision (b).

Level of Discipline

7. Having determined respondent has been convicted of a crime that is substantially related to the qualifications, functions, or duties of a licensee, it next remains to be determined whether respondent has been sufficiently rehabilitated so that his licensure would not adversely affect the public health, safety and welfare.

Respondent bears the burden of establishing his rehabilitation. (Evid. Code, §§ 115 and 500.)

8. The Board has developed criteria to evaluate whether an applicant who has been sufficiently rehabilitated when an applicant has not completed the criminal sentence at issue. The relevant criteria, which can be found at Regulations 1769, subdivision (b)(2), includes consideration of the following: (a) The nature and gravity of the crime or crimes; (b) evidence of any misconduct or crime committed subsequent to the acts or crimes under consideration as grounds for denial; (c) the time that has elapsed since commission of the acts or offenses; (d) whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant; and (e) any evidence of rehabilitation submitted by the applicant as outlined in the Board's Disciplinary Guidelines (rev. 4/2024) (Guidelines).

9. The Guidelines provide examples of appropriate evidence demonstrating rehabilitative efforts and competency. These include recent, dated, written statements or performance evaluation from employers or supervisors; recent, dated letters from counselors or psychologists regarding respondent's participation in a rehabilitation or recovery program; recent, dated letters describing respondent's participation in support groups; recent, dated laboratory analyses or drug screen reports confirming abstention from drugs and alcohol; recent, dated physical examination/assessment report(s) by a licensed physician confirming the absence of any physical impairment that would prohibit the respondent from practicing safely; recent, dated letters from probation or parole officers regarding respondent's participation in and/or compliance with terms and conditions of probation or parole; and recent, dated letters from persons familiar with respondent in either a personal or professional capacity

regarding their knowledge of respondent's character, rehabilitation, and other pertinent facts. (Guidelines, p. 4.)

10. Here, because respondent's crime threatened public safety, his alcohol-related misconduct and resulting conviction are serious but did not result in injury to any individual or property.

11. Even though respondent remains on probation until March 2027, respondent has been compliant with the terms and conditions of his criminal probation. Respondent completed the nine-month offender impaired driver program.

12. To respondent's credit, respondent took full responsibility for his actions and expressed genuine remorse for his past actions, which is an essential step toward rehabilitation. (*Seide v. Com. of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Although mere remorse is not sufficient by itself to demonstrate rehabilitation, respondent has demonstrated his rehabilitation through changes he has made since his June 17, 2023 arrest. Respondent had made changes in his social relationships and activities. He has a strong support system in place to prevent the recurrence of such lapse in judgment. He completed the pharmacy technician program in 2024.

13. It is also important to note that though he has not been licensed as a pharmacy technician, respondent has been working as a CNA for the last four years, and no disciplinary action has been taken against his certification by the California Department of Public Health for his misconduct. Based upon these factors, respondent's single alcohol-related conviction appears to be an isolated incident, which is unlikely to reoccur.

14. Public protection is the Board's highest priority when excising its licensing, regulatory, and disciplinary functions. (Bus. & Prof. Code, § 4001.1.) When all

the evidence is considered in light of the Board's rehabilitation criteria, respondent established sufficient rehabilitation to receive a probationary pharmacy technician license, with terms and conditions designed to protect the public, which includes abstention, drug and alcohol testing, and attendance at AA or similar support group. In addition, given the recency of respondent's conviction, a longer probation term of five years is appropriate.

ORDER

Upon satisfaction of all statutory and regulatory requirements for issuance of a pharmacy technician license, a pharmacy technician license shall be issued to respondent Leonardo Alvarado and immediately revoked; the order of 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 his probation, including but not limited to: timely responses to requests for information by Board staff; timely compliance with directives from Board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

5. REPORTING OF EMPLOYMENT AND NOTICE TO EMPLOYERS

During the period of probation, respondent shall notify all present and prospective employers of the decision in OAH case No. 2024100771 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

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

concerning respondent's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of his employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in OAH Case No. 2024100771, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the Board in writing within 15 days of the change acknowledging that he has read the decision in OAH Case No. 2024100771, 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 OAH Case No. 2024100771, and the terms and conditions imposed thereby in advance of respondent commencing work at such licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment by or through an employment

service, respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the Board in writing acknowledging that he or she has read the decision in OAH Case No. 2024100771, 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. 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.

8. 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.

9. LICENSE SURRENDER WHILE ON PROBATION/SUSPENSION

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

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

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

Respondent may not reapply for any license from the Board for 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.

10. CERTIFICATION PRIOR TO RESUMING WORK

Respondent shall maintain an active, current certification as defined by Business and Professions Code section 4202, subdivision (a)(4), for the entire period of probation, and shall submit proof of re-certification or renewal of certification to the Board within ten (10) days of receipt. Failure to maintain active, current certification or to timely submit proof of same shall be considered a violation of probation.

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 20 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the Board or its designee.

If respondent does not practice as a pharmacy technician in California for the minimum number of hours in any calendar month, for any reason (including vacation), respondent shall notify the Board in writing within 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 his own expense, shall participate in testing as directed by the Board or its designee for the detection of alcohol, controlled substances, and dangerous drugs and/or dangerous devices. Testing protocols may include biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other testing protocols as directed by the Board or its designee. All testing must be pursuant to an observed testing protocol, unless respondent is informed otherwise in writing by the Board or its designee. Respondent may be required to participate in testing for the entire probation period and frequency of testing will be determined by the Board or its designee.

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

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

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

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

Any of the following shall be considered a violation of probation and shall result in respondent being immediately suspended from practice as a pharmacy technician until notified by the Board in writing that he may resume practice: failure to timely

complete all of the steps required for enrollment/registration with the drug testing vendor, including making arrangements for payment; failure to timely commence drug testing protocols; failure to contact the drug testing vendor as required to determine testing date(s); failure to test as required; failure to timely supply documentation demonstrating that a detected substance was taken pursuant to a legitimate prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment, the Board or its designee shall inform respondent of the suspension and inform respondent to immediately leave work, and shall notify respondent's employer(s) and work site monitor(s) of the suspension.

During any such suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the Board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices and controlled substances.

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs and/or dangerous devices.

Failure to comply with any such suspension shall be considered a violation of probation. Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

15. ABSTAIN FROM DRUGS AND ALCOHOL

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

16. ATTEND SUBSTANCE ABUSE RECOVERY RELAPSE PREVENTION AND SUPPORT GROUPS

Within 30 days of the effective date of this decision, respondent shall begin regular attendance at a recognized and established substance abuse recovery support

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

DATE: 02/07/2025

Sandy Yu

SANDY YU

Administrative Law Judge

Office of Administrative Hearings

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

12 In the Matter of the Statement of Issues
Against:

Case No. 7888

13 **LEONARDO ALVARADO**

STATEMENT OF ISSUES

14 **Pharmacy Technician License Applicant**

15 Respondent.
16

17
18 **PARTIES**

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

22 2. On or about March 22, 2024, the Board received an application for a Pharmacy
23 Technician License from Leonardo Alvarado (Respondent). On or about March 14, 2024,
24 Leonardo Alvarado certified under penalty of perjury to the truthfulness of all statements,
25 answers, and representations in the application. The Board denied the application on May 23,
26 2024.

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1 **JURISDICTION**

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

5 4. Section 4300(c) of the Code states, in pertinent part, the board may refuse a license to
6 any applicant guilty of unprofessional conduct.

7 **STATUTORY PROVISIONS**

8 5. Section 480 of the Code states, in pertinent part:

9 (a) Notwithstanding any other provision of this code, a board may deny a
10 license regulated by this code on the grounds that the applicant has been convicted of
11 a crime or has been subject to formal discipline only if either of the following
conditions are met:

12 (1) The applicant has been convicted of a crime within the preceding seven
13 years from the date of application that is substantially related to the qualifications,
14 functions, or duties of the business or profession for which the application is made,
15 regardless of whether the applicant was incarcerated for that crime, or the applicant
16 has been convicted of a crime that is substantially related to the qualifications,
17 functions, or duties of the business or profession for which the application is made
and for which the applicant is presently incarcerated or for which the applicant was
released from incarceration within the preceding seven years from the date of
application. However, the preceding seven-year limitation shall not apply in either of
the following situations:

18 . . .

19 **REGULATORY PROVISIONS**

20 6. California Code of Regulations, title 16, section 1770(a) states:

21 For the purpose of denial, suspension, or revocation of a personal or facility
22 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
23 Business and Professions Code, a crime, professional misconduct, or act shall be
24 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.

25 **FIRST CAUSE FOR DENIAL OF APPLICATION**

26 **(March 5, 2024 Criminal Conviction - DUI on June 17, 2023)**

27 7. Respondent's application is subject to denial under Code section 480(a)(1), in
28 conjunction with California Code of Regulations, title 16, section 1770(a), on or about March 5,

2024, in a criminal proceeding titled *The People of the State of California vs. Leonardo Alvarado*, in Superior Court of California, County of San Bernardino, Case No. MWV24003173, Respondent pled no contest and was convicted of violating Vehicle Code section 23152(a) (driving under the influence), a misdemeanor; and Vehicle Code section 23152(b) (driving under the influence alcohol/0.08% or more), a misdemeanor. Respondent was sentenced to serve two days in jail, placed on probation for three years with terms and conditions, ordered to complete a nine-month DUI program, and pay fines and fees.

The circumstances surrounding the conviction are that on or about June 17, 2023, at approximately 1:37 a.m., a San Bernardino County Sheriff's Department deputy initiated a traffic stop involving Respondent. Upon speaking to Respondent, the deputy noticed an odor of an alcoholic beverage emitting from his person, flushed face, slurred speech, and red, watery, and glossy eyes. Respondent admitted to drinking alcoholic beverages prior to driving. At approximately 2:41 a.m., Respondent submitted to a blood sample that revealed a blood alcohol concentration of 0.226%.

PRAYER

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

1. Denying the application of Leonardo Alvarado for a Pharmacy Technician License;
- and
2. Taking such other and further action as deemed necessary and proper.

DATED: 9/18/2024

Sodergren,
Anne@DCA

Digitally signed by
Sodergren, Anne@DCA
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ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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