

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

In the Matter of the Statement of Issues Against:

**JOSEPH M. ENSSLIN VARGAS aka JOSEPH M. ENSSLINVARGAS,
Respondent**

Pharmacy Technician Applicant

Agency Case No. 6867

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Repeal is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 26, 2020.

It is so ORDERED on February 25, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STANTON W. LEE
Deputy Attorney General
State Bar No. 203563
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 445-9921
6 Facsimile: (916) 324-5567
Attorneys for Complainant
7

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

12 In the Matter of the Statement of Issues
Against:

Case No. 6867

13 **JOSEPH M. ENSSLIN VARGAS**
14 **aka JOSEPH M. ENSSLIN VARGAS**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

15 **Pharmacy Technician Applicant.**

[Bus. & Prof. Code § 495]

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board of
22 Pharmacy (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Stanton W. Lee,
24 Deputy Attorney General.

25 2. Joseph Ensslin Vargas, also known as Joseph Ensslinvargas (Respondent) has chosen
26 to represent himself in this proceeding.

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1 **JURISDICTION**

2 3. On or about July 29, 2019, the Board received an application for a pharmacy
3 technician license from Respondent. On or about July 25, 2019, Respondent certified under
4 penalty of perjury to the truthfulness of all statements, answers, and representations in the
5 application. The Board denied the application on October 9, 2019.

6 4. Statement of Issues No. 6867 was filed before the Board of Pharmacy (Board),
7 Department of Consumer Affairs and is currently pending against Respondent. The Statement of
8 Issues and all other statutorily required documents were properly served on Respondent on
9 December 27, 2019. A copy of Statement of Issues No. 6867 is attached as exhibit A and
10 incorporated herein by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Statement of Issues No. 6867. Respondent has also carefully read, and
14 understands the effects of this Stipulated Settlement and Disciplinary Order for Public Repeval.

15 6. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
17 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
18 the right to present evidence and to testify on his own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 **CULPABILITY**

25 8. Respondent understands and agrees that the charges and allegations in Statement of
26 Issues No. 6867, if proven at a hearing, constitute cause for denial of his application for a
27 Pharmacist License.

28 9. For the purpose of resolving the Statement of Issues without the expense and

1 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
2 establish a factual basis for the causes for denial in the Statement of Issues, and that Respondent
3 hereby gives up his right to contest those charges.

4 10. Respondent agrees that his application for a Pharmacy Technician License is subject
5 to denial, and he agrees to be bound by the Disciplinary Order below.

6 **CONTINGENCY**

7 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
8 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
9 communicate directly with the Board regarding this stipulation and settlement, without notice to
10 or participation by Respondent or his counsel. By signing the stipulation, Respondent
11 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
12 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
13 as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Repeval
14 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
15 between the parties, and the Board shall not be disqualified from further action by having
16 considered this matter.

17 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
18 copies of this Stipulated Settlement and Disciplinary Order for Public Repeval, including PDF
19 and facsimile signatures thereto, shall have the same force and effect as the originals.

20 13. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by
21 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
22 of their agreement. It supersedes any and all prior or contemporaneous agreements,
23 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
24 Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified,
25 supplemented, or otherwise changed except by a writing executed by an authorized representative
26 of each of the parties.

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14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:


DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the Application for Licensure of Respondent Joseph Ensslin Vargas, also known as Joseph Ensslinvargas is hereby granted. Upon satisfaction of all statutory and regulatory requirements for issuance of a pharmacy technician license, a pharmacy technician license shall be issued to Respondent. Said license shall immediately be publicly reproved by the Board of Pharmacy under Business and Professions Code section 495 in resolution of Statement of Issues No. 6867, attached as exhibit A.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Repeval. I understand the stipulation and the effect it will have on my application for a Pharmacy Technician License. I enter into this Stipulated Settlement and Disciplinary Order for Public Repeval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 20191230



JOSEPH ENSSLIN VARGAS aka
JOSEPH ENSSLINVARGAS
Respondent

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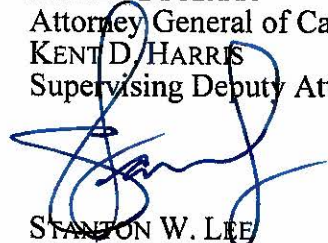
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Repeval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 1/10/2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General



STANTON W. LEE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 6867

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
STANTON W. LEE
3 Deputy Attorney General
State Bar No. 203563
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 445-9921
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10 In the Matter of the Statement of Issues
11 Against:

Case No. 6867

12 **JOSEPH M. ENSSLIN VARGAS**
13 **aka JOSEPH M. ENSSLINVARGAS**

STATEMENT OF ISSUES

14 **Pharmacy Technician Applicant.**

15 Respondent.

16
17 Anne Sodergren (Complainant) alleges:

18 **PARTIES**

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

21 2. On or about July 29, 2019, the Board received an application for a pharmacy
22 technician license from Joseph Ensslin Vargas, also known as Joseph Ensslinvargas
23 (Respondent). On or about July 25, 2019, Respondent certified under penalty of perjury to the
24 truthfulness of all statements, answers, and representations in the application. The Board denied
25 the application on October 9, 2019.

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1 **JURISDICTION**

2 3. Pursuant to Business and Professions Code (Code) section 485(b), on or about
3 October 9, 2019, Respondent’s application was denied and he was notified of the right to a
4 hearing to appeal the denial.

5 4. On or about November 19, 2019, the Board received Respondent’s request for a
6 hearing to appeal the denial of his application.

7 **STATUTORY PROVISIONS**

8 5. Code section 480 states, in pertinent part:

9 (a) A board may deny a license regulated by this code on the grounds that the
10 applicant has one of the following:

11 (1) Been convicted of a crime. A conviction within the meaning of this section
12 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
13 Any action that a board is permitted to take following the establishment of a
14 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 the
provisions of Section 1203.4 of the Penal Code.

15

16 (3) Done any act that if done by a licentiate of the business or profession in
17 question, would be grounds for suspension or revocation of license.

18 The board may deny a license pursuant to this subdivision only if the crime or
19 act is substantially related to the qualifications, functions, or duties of the business or
profession for which application is made.

20 (b) Notwithstanding any other provision of this code, a person shall not be
21 denied a license solely on the basis that he or she has been convicted of a felony if he
22 has obtained a certificate of rehabilitation under Section 4852.01 and following of the
23 Penal Code or that he has been convicted of a misdemeanor if he has met all
applicable requirements of the criteria of rehabilitation developed by the board to
evaluate the rehabilitation of a person when considering the denial of a license under
subdivision (a) of Section 482.

24 6. Code section 4300 states, in pertinent part:

25

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

- 1 (1) Medical or psychiatric evaluation.
- 2 (2) Continuing medical or psychiatric treatment.
- 3 (3) Restriction of type or circumstances of practice.
- 4 (4) Continuing participation in a board-approved rehabilitation program.
- 5 (5) Abstention from the use of alcohol or drugs.
- 6 (6) Random fluid testing for alcohol or drugs.
- 7 (7) Compliance with laws and regulations governing the practice of pharmacy.

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

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

12

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

16

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

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Conviction of a Crime)**

3 8. Respondent's application is subject to denial under Code section 480(a)(1), in that
4 Respondent was convicted of a crime substantially related to the qualifications, functions, or
5 duties of a pharmacy technician. More specifically, on or about July 10, 2019, in the case of
6 *People v. Joseph M. Ensslin Vargas* (Super. Ct. San Joaquin County, Case No. CR-2019-
7 0006916), Respondent was convicted by the Court of violating Vehicle Code section 23152(b)
8 (Driving Under the Influence of Alcohol with a Blood Alcohol Level above 0.08%), a
9 misdemeanor. The circumstances of the crime were that on or about March 23, 2019 at 0224
10 hours, an officer with the California Highway Patrol responded to a report regarding a traffic
11 collision on southbound Highway 99, north of Jack Tone Road. Upon arrival at the scene and
12 investigation of the collision, the Officer determined that Respondent was driving while
13 intoxicated and made an unsafe turning movement resulting in his collision with the highway's
14 center divide wall. Although Respondent denied driving at the time of the collision, an abrasion
15 on the shoulder of Respondent was consistent with a driver-side seat belt injury while the
16 passenger seat belt, which was locked in the fully retracted position, was consistent with the
17 passenger of the vehicle not wearing a seat belt and the passenger having no abrasions consistent
18 with wearing a seatbelt. This was also consistent with the vehicle passenger's statement that
19 Respondent was driving at the time of the accident. The Officer observed Respondent to have
20 such heavily slurred speech that the officer could not understand Respondent's statement.
21 Respondent also had an extremely strong odor of alcohol on his breath and person, red and watery
22 eyes. Respondent failed field sobriety tests, was unable to stand without assistance and was
23 arrested for driving under the influence of alcohol. His tested blood alcohol content at the time
24 was recorded to be 0.21% and 0.19%.

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1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Committed Acts Which If Done By A Licentiate**
3 **Would be Grounds for Suspension or Revocation)**

4 9. Respondent's application is subject to denial under Code section 480(a)(3) in that he
5 committed acts which if done by a licentiate would constitute grounds for discipline for
6 unprofessional conduct under the following Code sections:

- 7 a. Code section 4300(c) (unprofessional conduct), as set forth above in paragraph 8.
8 b. Code section 4301(h) (self-administration of alcohol to the extent of becoming a
9 danger to himself and others), as set forth above in paragraph 8.
10 c. Code section 4301(l) (conviction of a crime), as set forth above in paragraph 8.

11 **PRAYER**

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

- 14 1. Denying the application of Joseph Ensslin Vargas, also known as Joseph
15 Ensslinvargas for a Pharmacy Technician license; and,
16 2. Taking such other and further action as deemed necessary and proper.

17
18 DATED: December 23, 2019



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

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