

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

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

**JACQUELENE ZENTYATCE PEREZ, Respondent**

**Pharmacy Technician Registration Applicant**

**Agency Case No. 6968**

**OAH No. 2020080711**

**DECISION AND ORDER**

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

This Decision shall become effective at 5:00 p.m. on January 20, 2021.

It is so ORDERED on December 21, 2020.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

Greg Lippe  
Board President

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

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**Agency Case No. 6968**

**OAH No. 2020080711**

**PROPOSED DECISION**

Administrative Law Judge Linda Pollack, State of California, Office of Administrative Hearings, heard this matter by telephone and video conference on September 28, 2020.

Supervising Deputy Attorney General Joshua A. Room represented complainant Anne Sodergren, Executive Officer of the Board of Pharmacy.

Respondent Jacqueline Zentyatce Perez was present and represented herself.

The record closed and the matter was submitted for decision on September 28, 2020.

## **FACTUAL FINDINGS**

1. Complainant Anne Sodergren filed the statement of issues in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

2. On June 21, 2019, the Board received an application for a pharmacy technician license from Jacqueline Zentyatce Perez (respondent). On March 11, 2020, the Board denied the application based on multiple alcohol-related driving convictions. On May 4, 2020, respondent requested a hearing.

### **Respondent's Criminal History**

3. On March 6, 2015, respondent was convicted in the Superior Court of California, County of Contra Costa, of a misdemeanor violation of Vehicle Code section 23152, subdivision (b) (driving a vehicle with a blood alcohol level of 0.08 percent or more). Respondent's blood alcohol content was measured at 0.15 percent. Imposition of sentence was suspended, and respondent was placed on probation for three years under terms and conditions which included paying a fine in the amount of \$1,749, completing a six-month alcohol program and serving 10 days in the Sheriff's Work Alternative Program.

The facts and circumstances of the offense are that on September 14, 2014, respondent was driving home at approximately 6:45 a.m., after work at a night club. Respondent had consumed tequila at work. She collided into a parked truck that had a large tree trimmer connected to it.

4. On June 5, 2018, respondent was convicted in the St. Charles Municipal Court, Division of the 11th Judicial Circuit, in St. Charles, Missouri, of driving while

intoxicated and in an accident, and driving on a suspended license, both misdemeanors.

The facts and circumstances of the offenses are that respondent was arrested on July 31, 2015, when a police officer encountered her car, stopped in the middle of the road, blocking both lanes of traffic. Respondent had struck a parked car; both vehicles suffered damage. Respondent's speech was slurred, and she appeared to be confused as to where she was and where she had been. She also had trouble explaining to the officer what had happened. Respondent's blood alcohol content was measured at 0.25 percent.

After being arrested, respondent returned to California and did not appear in court as required. A bench warrant was issued. She did not enter her plea in this matter until June 2018.

5. On April 16, 2016, responded was arrested in Maryland Heights, Missouri, for an alcohol-related driving offense. Her original date to appear for this case was May 12, 2016. She failed to appear, and a bench warrant was issued.

This case remained unresolved until respondent pled guilty to a misdemeanor conviction of driving while intoxicated, on January 30, 2020, in the Maryland Heights Municipal Court, Division of the 21st Judicial Circuit Court, in Maryland Heights, Missouri. Imposition of sentence was suspended, and respondent was placed on probation for two years, under terms and conditions which included completing 25 hours of work and paying a fine of \$119. She also had to complete a Substance Awareness Traffic Offender program. Currently, respondent is working to complete these requirements in California with the Missouri court's permission.

## **Duties of a Pharmacist Technician**

6. Elham Delune is an inspector with the Board of Pharmacy. She described the duties of a pharmacy technician as being, essentially, the “right-hand person” to the pharmacist. The pharmacist must trust and have confidence in its technician because the pharmacist relies heavily on the technician’s skills, accuracy and sound judgment. Although the pharmacist supervises the technician, the pharmacist has his or her own job to do and the technician works with a great deal of independence.

Delune reviewed respondent’s criminal documents. She expressed great concern about licensing respondent. Respondent’s history evidenced a lack of sound judgment. A pharmacy technician must abide by the laws and regulations pertinent to the job and respondent, aware that she had been drinking, chose to drive anyway, on multiple occasions, breaking the law repeatedly.

## **Respondent’s Evidence**

7. Respondent is 30 years old. As of March 2020, respondent has been working as a pharmacy clerk in Napa, California.

8. Respondent grew up in California. After her conviction in California, she moved to Missouri to attend school. She did not complete her California court-ordered requirements before she left. She also did not complete her education in Missouri. Respondent is a single mother of a three-year-old. She receives no assistance from, and has no contact with, the child’s father.

9. During the years 2014 to 2016, while living in Missouri, respondent worked as a cocktail server and was permitted to drink on the job. She worked and lived in a “party environment” and “succumbed” to that lifestyle. Once she became a

mother, and was responsible for her child, she realized she had to change. In order to do so, and to obtain a well-paying job to support her family, respondent returned to California and attended and completed the pharmacy technician program at Carrington College in 2019. She worked as a cocktail waitress in San Francisco before she was offered the pharmacy clerk position in March 2020. She sees little difference in the job duties of a clerk and those of a pharmacy technician, other than handling medications.

10. Respondent does not feel she has an alcohol dependency problem. She believes she knows the signs of addiction because since grade school she has accompanied her mother to Alcoholics and Narcotics Anonymous meetings; her mother is a drug addict. Respondent felt that she could stop drinking without any trouble. The last time she consumed alcohol was in March 2020, before COVID-19 caused bars and restaurants to close.

11. No court program requires respondent to attend counseling or to attend a 12-step or similar program; she attends neither. When she first returned to California, she went to her mother's regular meeting to greet people she has known for many years. She did not share at the meeting. She has not discussed her criminal convictions with her mother because of feelings of shame.

12. Respondent is still on probation in both California and Missouri. Because she failed to complete the six-month alcohol program ordered in California and was later convicted of alcohol-related driving offenses in Missouri, the California court ordered her to complete an 18-month alcohol program, instead of the previously imposed six-month program. Respondent was enrolled in an 18-month alcohol program, as of February 1, 2020. She is currently working to complete requirements for

both states. Her goals are to study medicine, complete her undergraduate degree, and work in pharmaceutical science, perhaps in research.

13. While respondent understands the Board's concerns, she feels she can be trusted with a pharmacy technician license, reporting that her life has changed dramatically since becoming a mother. She requests a probationary license.

## **LEGAL CONCLUSIONS**

1. Respondent has the burden of proof to establish, by a preponderance of the evidence, that she qualifies for the license she seeks. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205; Evid. Code §§ 115, 500.)

### **First Cause for Denial – Conviction of Substantially Related Crimes**

2. Business and Professions Code sections 480, subdivision (a)(1), and Business and Professions Code sections 480, subdivision (a)(3)(A), by reference to Code section 4301, subdivision (l), provide that the Board may deny an application for a pharmacy technician license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of a pharmacy technician. A crime is 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 or registrant to perform the functions authorized by her license or registration in a manner consistent with the public health, safety or welfare." (Cal. Code Regs., tit. 16, § 1770.) Respondent's three convictions for alcohol-related driving offenses are substantially related to the qualifications, functions and duties of a pharmacy technician. Therefore, cause exists to deny respondent's application in light of the matters set forth in Factual Findings 3 through 6.

## **Second Cause for Denial – Conviction of Alcohol-Related Offense**

3. Business and Professions Code sections 480, subdivision (a)(1), and Business and Professions Code sections 480, subdivision (a)(3)(A), by reference to Code section 4301, subdivision (k), provide that the Board may deny an application for a pharmacy technician license if the applicant has more than one misdemeanor conviction involving the use of alcohol. Based upon the matters set forth in Factual Findings 3 through 6, cause exists to deny respondent's application under these statutes.

## **Third Cause for Denial – Dangerous Use of Alcohol**

4. Business and Professions Code sections 480, subdivision (a)(1), and Business and Professions Code sections 480, subdivision (a)(3)(A), by reference to Code section 4301, subdivision (h), provide that the Board may deny an application for a pharmacy technician license if the applicant has used alcoholic beverages to an extent or in a manner dangerous to herself or the public. Based upon the matters set forth in Factual Findings 3 through 6, cause exists to deny respondent's application under these statutes.

## **Fourth Cause for Denial – Unprofessional Conduct**

5. Business and Professions Code sections 4300, subdivision (c)(a)(1), and Business and Professions Code sections 480, subdivision (a)(3)(A), by reference to Code section 4301, provide that the Board may deny an application for a pharmacy technician license for unprofessional conduct. Based upon the matters set forth in Factual Findings 3 through 6, cause exists to deny respondent's application under these statutes.



## **Analysis**

6. In determining whether to grant an application for licensure, the Board shall consider evidence of rehabilitation. However, public protection shall take priority over rehabilitation and, where evidence of rehabilitation and public protection are in conflict, public protection shall take precedence. (Bus. & Prof. Code, § 4313.) The Board has adopted Disciplinary Guidelines to assist in the evaluation of whether an application for licensure should be granted, and if so, under what terms and conditions. (Cal. Code Regs., tit. 16, § 1760.) Some of the factors to be considered are: 1) whether the applicant's misconduct involved the actual or potential harm to the public or a consumer; 2) the number and variety of violations; 3) the nature and severity of the crimes involved; and 4) compliance with the terms of criminal probation.

7. Respondent has made positive changes to her life since the birth of her child, including attending and completing a pharmacy technician program to better support her family. In addition, she no longer works as a cocktail server but as a pharmacy clerk, in a field she has interest in. (Factual Finding 9.) Respondent seeks a pharmacy technician license as well, in order to earn more money to support her family.

8. Respondent, however, has been arrested and convicted for three alcohol-related driving offenses, with high levels of blood alcohol content, and at least two incidents involved a traffic accident. (Factual Findings 3 through 6.) She has failed to comply with the criminal court orders and allowed bench warrants to remain outstanding for years. (Factual Findings 4 and 5.) While she currently works to complete her criminal court obligations, respondent has not demonstrated any insight into her abuse of alcohol. In addition, she does not appear to appreciate the

additional, serious responsibilities that would accompany having a pharmacy technician license. (Factual Findings 6 and 9.) The duties of a pharmacy technician involve the handling of controlled substances and require sound judgment and strict adherence to laws and regulations governing their handling. The pharmacist must trust the technician to handle these matters independently. Respondent has not demonstrated the level of rehabilitation that would warrant the issuance of even a probationary pharmacy technician license at this time. Respondent is encouraged to continue her commitment to sobriety and a law-abiding lifestyle.

### **ORDER**

The application of Jacqueline Zentyatce Perez for a pharmacy technician license is denied.

DATE: 10/28/2020

*Linda Pollack*

LINDA POLLACK

Administrative Law Judge

Office of Administrative Hearings

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

12 In the Matter of the Statement of Issues Against: Case No. 6968  
13 **JACQUELENE ZENTYATCE PEREZ** **STATEMENT OF ISSUES**  
14 **Pharmacy Technician License Applicant**  
15 Respondent.

16  
17 **PARTIES**

18 1. Anne Sodergren (Complainant) brings this Statement of Issues solely in her official  
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
20 2. On or about June 21, 2019, the Board of Pharmacy, Department of Consumer Affairs  
21 received an application for a Pharmacy Technician License from Jacqueline Zentyatce Perez  
22 (Respondent). On or about June 19, 2019, Respondent certified under penalty of perjury to the  
23 truthfulness of all statements, answers, and representations in the application. The Board denied  
24 the application on March 11, 2020. On or about May 4, 2020, Respondent filed an appeal.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board of Pharmacy (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code (Code) unless otherwise indicated.



1 “(k) The conviction of more than one misdemeanor or any felony involving the use,  
2 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
3 combination of those substances.

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

6 **REGULATORY PROVISIONS**

7 7. California Code of Regulations, title 16, section 1769, states:

8 “...

9 “(b) When considering the denial of a facility or personal license under Section 480 of the  
10 Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his  
11 present eligibility for licensing or registration, will consider the following criteria:

12 “(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for  
13 denial.

14 “(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under  
15 consideration as grounds for denial under Section 480 of the Business and Professions Code.

16 “(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in  
17 subdivision (1) or (2).

18 “(4) Whether the applicant has complied with any terms of parole, probation, restitution or  
19 any other sanctions lawfully imposed against the applicant.

20 “(5) Evidence, if any, of rehabilitation submitted by the applicant.”

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

22 "For the purpose of denial, suspension, or revocation of a personal or facility license  
23 pursuant to Division 1.5 (commencing with Section 4) of the Business and Professions Code, a  
24 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
25 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
26 licensee or registrant to perform the functions authorized by his license or registration in a manner  
27 consistent with the public health, safety, or welfare."

28 ///

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Conviction of Substantially Related Crime(s))**

3 9. Respondent has subjected her Pharmacy Technician Application to denial under Code  
4 section 480, subdivisions (a)(1) and/or Code section 480, subdivision (a)(3)(A), by reference to  
5 Code section 4301, subdivision (l), for conviction of substantially related crime(s), in that:

6 a. On or about March 6, 2015, in a criminal matter titled *The People of the State*  
7 *of California v. Jacqueline Zentyatce Perez*, Contra Costa County Superior Court Case No. 02-  
8 318251-6-001, Respondent pleaded no contest to, and was convicted of, driving with a blood  
9 alcohol concentration ("BAC") of 0.08% or higher (Veh. Code, § 23152, subd. (b)), a  
10 misdemeanor. Imposition of sentence was suspended and Respondent was placed on probation  
11 for a period of three (3) years under terms and conditions to include paying a fine in the amount  
12 of \$1,749, 10 days of Sheriff's Work Project, and a 6-month DUI program. Respondent's BAC  
13 was measured at .15%.

14 b. On or about June 5, 2018, in a criminal matter in the State of Missouri, St.  
15 Charles Municipal Court Case No. 151034472, Respondent pleaded guilty to charges of Driving  
16 While Suspended and was convicted of Driving While Intoxicated in Accident. Respondent's  
17 BAC was measured at .25%

18 **SECOND CAUSE FOR DENIAL OF APPLICATION**

19 **(Conviction of Alcohol-Related Offenses)**

20 10. Respondent has subjected her Pharmacy Technician Application to denial under Code  
21 section 480, subdivision (a)(3)(A), by reference to Code section 4301, subdivision (k), in that, as  
22 detailed in paragraph 9 above, Respondent has been convicted of more than one criminal offense  
23 involving consumption of alcohol.

24 **THIRD CAUSE FOR DENIAL OF APPLICATION**

25 **(Dangerous Use of Alcohol)**

26 11. Respondent has subjected her Pharmacy Technician Application to denial under Code  
27 section 480, subdivision (a)(3)(A), by reference to Code section 4301, subdivision (h), in that, as  
28 detailed in paragraph 9 above, Respondent has made dangerous use of alcohol. Also, on or about

1 April 16, 2016, Respondent was arrested or detained for driving while intoxicated in Missouri.  
2 Charges are still pending in Maryland Heights Municipal Court Case No. 2016-05431.

3 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

4 **(Unprofessional Conduct)**

5 12. Respondent has subjected her Pharmacy Technician Application to denial under Code  
6 section 4300, subdivisions (c), and/or Code section 480, subdivision (a)(3)(A), by reference to  
7 Code section 4301, in that the conduct described above in paragraphs 9 to 11 constitutes  
8 unprofessional conduct unbecoming of the profession of pharmacy.

9 **PRAYER**

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

- 12 1. Denying the application of Jacqueline Zentyatce Perez (Respondent) for a Pharmacy  
13 Technician License;
- 14 2. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: June 22, 2020



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

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