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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:

13 **ERIC KENNETH WRIGHT, JR.**

14 **Pharmacy Technician License**

15
16 Applicant.

Case No. 7925

STATEMENT OF ISSUES

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 15, 2024, the Board received an application for a Pharmacy
23 Technician License from Eric Kenneth Wright, Jr. (Respondent). On or about March 12, 2024,
24 Eric Kenneth Wright, Jr. certified under penalty of perjury to the truthfulness of all statements,
25 answers, and representations in the application. The Board denied the application on September
26 16, 2024.

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JURISDICTION

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

4. Section 118 of the Code states:

(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(c) As used in this section, "board" includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and "license" includes "certificate," "registration," and "permit."

5. Section 4300 of the Code states:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any 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) Medical or psychiatric evaluation.
- (2) Continuing medical or psychiatric treatment.
- (3) Restriction of type or circumstances of practice.
- (4) Continuing participation in a board-approved rehabilitation program.
- (5) Abstention from the use of alcohol or drugs.
- (6) Random fluid testing for alcohol or drugs.
- (7) Compliance with laws and regulations governing the practice of pharmacy.

(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

6. Section 4300.1 of the Code states:

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

STATUTORY PROVISIONS

7. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

1 (c) A license shall not be denied, suspended, or revoked on the grounds of a
2 lack of good moral character or any similar ground relating to an applicant's
3 character, reputation, personality, or habits.

4 8. Code section 480 states in part:

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

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

19 (A) The applicant was convicted of a serious felony, as defined in Section
20 1192.7 of the Penal Code or a crime for which registration is required pursuant to
21 paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

22 ...

23 (b) Notwithstanding any other provision of this code, a person shall not be
24 denied a license on the basis that the person has been convicted of a crime, or on
25 the basis of acts underlying a conviction for a crime, if that person has obtained a
26 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01)
27 of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a
28 state or federal executive, or has made a showing of rehabilitation pursuant to
Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be
denied a license on the basis of any conviction, or on the basis of the acts
underlying the conviction, that has been dismissed pursuant to Section 1203.4,
1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable
dismissal or expungement. An applicant who has a conviction that has been
dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal
Code shall provide proof of the dismissal if it is not reflected on the report
furnished by the Department of Justice.

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9. Code section 481 states in part:

(a) Each board under this code shall develop criteria to aid it, when
considering the denial, suspension, or revocation of a license, to determine whether
a crime is substantially related to the qualifications, functions, or duties of the

1 business or profession it regulates.

2 (b) Criteria for determining whether a crime is substantially related to the
3 qualifications, functions, or duties of the business or profession a board regulates
4 shall include all of the following:

5 (1) The nature and gravity of the offense.

6 (2) The number of years elapsed since the date of the offense.

7 (3) The nature and duties of the profession in which the applicant seeks
8 licensure or in which the licensee is licensed.

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10 10. Code section 482 states in part:

11 (a) Each board under this code shall develop criteria to evaluate the
12 rehabilitation of a person when doing either of the following:

13 (1) Considering the denial of a license by the board under Section 480

14 (2) Considering suspension or revocation of a license under Section 490.

15 (b) Each board shall consider whether an applicant or licensee has made a
16 showing of rehabilitation if either of the following are met:

17 (1) The applicant or licensee has completed the criminal sentence at issue
18 without a violation of parole or probation.

19 (2) The board, applying its criteria for rehabilitation, finds that the applicant is
20 rehabilitated.

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22 11. Section 493 of the Code states, in pertinent part:

23 (a) Notwithstanding any other law, in a proceeding conducted by a board within
24 the department pursuant to law to deny an application for a license or to suspend or
25 revoke a license or otherwise take disciplinary action against a person who holds a
26 license, upon the ground that the applicant or the licensee has been convicted of a
27 crime substantially related to the qualifications, functions, and duties of the licensee
28 in question, the record of conviction of the crime shall be conclusive evidence of the
fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the
qualifications, functions, or duties of the business or profession the board regulates
shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type

of conviction without considering evidence of rehabilitation.

(c) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”

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REGULATORY PROVISIONS

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

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

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

(1) The nature and gravity of the offense;

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

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

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

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

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

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

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

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

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CAUSE FOR DENIAL
(July 12, 2022, Conviction for DUI on October 10, 2021)

13. Respondent’s application is subject to denial under Code section 475, and Code section 480, subdivision (a)(1), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, or duties of a pharmacy technician as follows:

a. On July 12, 2022, in the criminal matter entitled *People of the State of California v. Eric Kenneth Wright, Jr.*, Los Angeles Superior Court Case Number 2BL00516, Respondent was charged with violating Vehicle Code section 23152, subdivision (a) (driving under the influence of an alcoholic beverage). On July 12, 2022, Respondent was convicted on his plea of nolo contendere to Count 1 and was sentenced to probation for a period of 36 months. Respondent was required to complete a six-month first offender DUI program, attend a Mother’s Against Drunk Driving (MADD) Victim Impact Program, and pay fines, fees and restitution.

b. The circumstances that led to the conviction are that on October 10, 2021, at approximately 5:19 a.m., a California Highway Patrol officer on patrol responded to a vehicle blocking traffic. Upon arrival at the scene, the officer contacted Respondent who was passed out inside the vehicle with the engine still running. Respondent stepped out of the vehicle and was disoriented and confused. The officer observed Respondent to have objective symptoms of alcohol intoxication including slurred speech and the odor of alcoholic beverage emitting from his breath. Respondent admitted to consuming alcoholic beverages and was subsequently arrested. Respondent declined to submit to a preliminary alcohol screening test and chose a to submit to a blood test, which was conducted at 6:32 a.m. and resulted in a blood alcohol content (BAC) of 0.20%.

PRAYER

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

1. Denying the application of Eric Kenneth Wright, Jr. for a Pharmacy Technician License; and

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2. Taking such other and further action as deemed necessary and proper.

DATED: 12/1/2024

Sodergren,
Anne@DCA

Digitally signed by
Sodergren, Anne@DCA
Date: 2024.12.01 19:29:00
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ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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