

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

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

**MIGUEL DEL TORO, Respondent**

**Pharmacy Technician Registration Applicant**

**Agency Case No. 7002**

**OAH No. 2020120459**

**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 August 18, 2021.

It is so ORDERED on July 19, 2021.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



Seung W. Oh, PharmD.  
Board President

**BEFORE THE  
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**MIGUEL DEL TORO, Respondent**

**Agency Case No. 7002**

**OAH Case No. 2020120459**

**PROPOSED DECISION**

Wim van Rooyen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on March 24, 2021, from Sacramento, California.

Summer D. Haro, Deputy Attorney General, represented Anne Sodergren (complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, State of California.

Miguel Del Toro (respondent) represented himself.

Evidence was received and the record left open until April 1, 2021, for respondent to submit supplemental evidence and complainant to respond to such supplemental evidence. No supplemental evidence was submitted by the required

deadline. Consequently, on April 1, 2021, the record was closed and the matter submitted for decision.

## **FACTUAL FINDINGS**

### **Jurisdiction**

1. On November 12, 2019, respondent signed and thereafter filed an application for a pharmacy technician registration (application). On June 18, 2020, the Board denied the application. On July 13, 2020, the Board received respondent's request to appeal that denial.

2. On October 9, 2020, complainant, in her official capacity, filed the Statement of Issues. Complainant alleges that the application is subject to denial based on: (1) conviction of crimes substantially related to the qualifications, functions, and duties of a pharmacy technician; and (2) unprofessional conduct by using dangerous drugs or alcoholic beverages to the extent, or in a manner as, to be dangerous or injurious to oneself, any other person, or the public. Complainant requests that denial of respondent's application be affirmed.

3. Thereafter, the matter was set for an evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

## Complainant's Evidence

### RESPONDENT'S CONVICTIONS

4. On September 27, 2016, in a court martial proceeding entitled *United States v. Airman Miguel Del Toro*, in the Department of the Air Force, Headquarters 5th Bomb Wing (AFGSC), Minot Air Force Base, North Dakota, respondent was convicted on his guilty plea of violating United States Code, title 10, section 912a (Article 112a) (wrongful use of controlled substances). Respondent was sentenced to a reduction in rank, forfeit of \$1,000 pay, and confinement for 30 days.

5. The September 2016 conviction arose from the following events: Between approximately April 29, 2016, and May 2, 2016, respondent traveled to Minneapolis, Minnesota with friends and fellow airmen to go drinking and dancing. On that trip, respondent used cocaine, a Schedule II controlled substance.

6. On May 22, 2017, in the North Las Vegas Township Justice Court, Clark County, Nevada, Case No. 17CRN000443-0000 (17FN0352X), respondent was convicted on his nolo contendere plea of violating Nevada Revised Statutes section 202.350, subdivision (1)(d) (carrying a concealed weapon without a permit), a misdemeanor. Respondent was sentenced to six months of incarceration, suspended, and ordered to stay out of trouble for one year, attend eight hours of alcoholic counseling, pay a \$500 fine or perform 50 hours of community service, and forfeit the weapon. By a May 22, 2018 status conference, respondent had completed all requirements of his sentence and the case was closed.

7. The May 2017 conviction arose from the following events: On February 19, 2017, around 03:47 a.m., City of North Las Vegas police officers responded to an initial report of a bar fight. While en route, the officers were informed that the two

males and female involved in the fight had left the bar, and the two males were punching and kicking the female's car in the parking lot as she was attempting to flee. Once the female drove off, the two males left on foot. According to the bartender, both males had been "drinking heavily all night."

Based on a description of the two suspects, the officers stopped two persons matching the description, including respondent. During the stop, respondent refused to answer the officers' questions, including whether he had any weapons on his person. While patting down respondent, the officers found a black semi-automatic 9mm handgun in respondent's back right pocket. The gun was loaded and had a round in the chamber. Respondent admitted that he did not have a concealed carry permit.

Additionally, the officers smelled a strong odor of alcohol coming from respondent's breath and person, and observed that respondent had glassy, bloodshot eyes; a flushed face; and was slurring his speech. During the search of his person, respondent had to lean against the patrol vehicle to keep his balance. He refused to perform field sobriety testing or submit to evidentiary testing. Respondent was arrested and booked into the Las Vegas City Detention Center.

### **RESPONDENT'S APPLICATION**

8. On the application, respondent disclosed a 2016 conviction for "misconduct" and a 2017 conviction for "possession of firearm w/o permit." He answered "No" in response to the question: "Have you previously engaged in the illegal use of controlled substances?"

## Respondent's Evidence

9. After graduating from high school, respondent joined the Air Force in December 2013, wanting to do "something bigger than myself." As part of his military service, he received basic firearms training, including on firearms safety and how to disassemble a firearm. He regularly carried a firearm while on duty. He received "perfect scores" on his performance evaluations and also performed charity work at a thrift store.

10. Respondent was stationed at Minot Air Force Base in North Dakota, which was considered to have the highest suicide rate among airmen due to the extremely cold weather for eight months out of the year. He worked 12-hour shifts, was often exhausted, and had difficulty getting leave approved to visit his family in California.

11. Not long after respondent turned 21, his stress increased significantly. When he finally obtained leave to visit home, he discovered that his parents' home was dirty and disorderly, his parents were divorcing, and his mother attempted to commit suicide multiple times. One evening, she called him after driving a car into a ditch, and he found a loaded revolver in the car's front seat. "Being trained on how to handle a firearm," respondent "quickly unloaded the firearm, disassembled it and placed it in the trunk of [the] car."

12. Upon returning to base, respondent tried to control his stress through exercise, yoga, video games, smoking hookah (with corn syrup and Vitamin C), meditation, and diet, but "nothing seemed to work." After receiving an invitation from friends and fellow airmen, he joined them on a trip to Minneapolis to go dancing, have some drinks, and "have a good time." He drank so much alcohol that he "blacked out"

and his friends later told him that he had also used cocaine. He does not recall using cocaine, but believes that he consumed it voluntarily.

13. Respondent accepted the consequences of his conduct in Minneapolis and served his military sentence, including the 30 days of confinement, which gave him "a lot of time to think." In hindsight, he considers his military discipline "the best thing that happened to me." In December 2016, he received a general discharge from the Air Force and decided to stop consuming any alcohol or drugs. He found happiness in his religion and wanted to be a good role model for his siblings. Respondent testified that he has been completely sober since December 2016 and has since had no desire to drink.

14. On his way back to California after his military discharge, respondent stayed with his uncle in Las Vegas. On February 19, 2017, he met his uncle and aunt at a bar. Respondent's uncle drank a lot, got into a fight with his aunt, and eventually took out a handgun and loaded a round in the chamber. The bartender saw the handgun and called the police. To deescalate the situation, respondent took the loaded gun away from his uncle and put it in his own pocket. According to respondent, his uncle was a convicted felon and would have faced serious consequences if found with a weapon. Respondent testified that he intended to "turn it in to police first thing in the morning so that law enforcement could have the gun."

15. After leaving the bar, respondent and his uncle walked for about 15 minutes before they were stopped by police. Respondent did not think to unload the gun during that time, because "it all happened really fast," "it wasn't going to go off unless someone pulled the trigger," and his focus was on getting his uncle home. However, he admits that one should generally not carry a loaded gun if not on official duty. When stopped, respondent did not tell police about the handgun, because he

did not know the legality of carrying a concealed weapon in Nevada, "didn't know what to do," and decided to rather have police search him than respond to the officers' questions about whether he had any weapons on him. According to respondent, it was "defiantly [sic] a technicality offense."

16. Respondent vehemently denies drinking alcohol at the bar that night. His uncle and aunt consumed a lot of alcohol, but he was only drinking non-alcoholic beverages. At hearing, respondent posited that the bartender may have assumed that the entire table was drinking alcohol. Respondent also does not know why the officer indicated that respondent displayed signs of intoxication; he strongly disagrees with that observation.

17. Respondent successfully completed his sentences for both the 2016 and 2017 convictions. He has had no subsequent convictions or negative interactions with law enforcement, and is not currently on any probation or parole.

18. Respondent presently copes with stress and anxiety by going to church, sitting out in the fresh air, breathing, playing video games, and spending time with friends and family. He also receives support from his wife, and his mother's mental health has significantly improved. Respondent has not participated in any substance abuse rehabilitation program and does not attend Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings. He attended one or two therapy sessions after he left the military, but before the Las Vegas incident. The sessions were for general guidance and not substance abuse treatment.

19. On September 17, 2019, respondent completed 240 hours of instruction through San Joaquin Valley College (SJVC) required for licensing as a pharmacy



technician. As part of his studies at SJVC, he worked at a pharmacy for approximately one month as an extern.

Additionally, over the past two years, respondent has worked as a pharmacy clerk at Castle Pharmacy. His duties include conducting an inventory of non-controlled substances, preparing paperwork for expired medications, general filing, and retrieving pre-packaged medications for customers. He does not fill any medications. However, he has "stopped multiple dispensing errors from happening and [has] been nothing but helpful to the pharmacy." He has not been the subject of any customer complaints or work discipline.

20. Respondent feels like he belongs in a pharmacy, enjoys his interactions with customers, and receives satisfaction from helping people. He views being a pharmacy technician as "more than a job" and aspires to be a pharmacist one day.

21. Respondent requests an opportunity to demonstrate his true character, noting:

I understand that I have paperwork, but I assure you it was just a matter of wrong place wrong time and I am not the person you are most likely to perceive.

He is a changed, more mature person now and would never repeat his prior misconduct.

## **Analysis**

### **CAUSE FOR DENIAL**

22. The evidence establishes that respondent was convicted of substantially related crimes. At hearing, respondent admitted both his prior convictions, despite disputing some of the underlying facts. The 2016 conviction involved unlawful use of a controlled substance. The 2017 conviction arose from extremely poor judgment involving a firearm and alcohol. More specifically, respondent carried a loaded gun in his pocket for about 15 minutes while he was intoxicated in Las Vegas. He did so despite his firearms safety training and demonstrated knowledge of the dangers when he previously promptly unloaded and disassembled his mother's gun during her 2016 suicide attempt. Pharmacy technicians are expected to have good judgment and a high degree of trustworthiness, because they have access to controlled substances and other dangerous drugs. Thus, respondent's convictions are substantially related to the qualifications, functions, and duties of a pharmacy technician.

23. The evidence also establishes that respondent engaged in unprofessional conduct, because he used a controlled substance and alcohol in a manner as to be dangerous or injurious to himself or other people. In 2016, he drank so much alcohol in Minneapolis that he "blacked out" and has no memory of subsequently using cocaine. By virtue of that conduct, he placed himself at serious risk of harm. Additionally, in 2017, respondent carried a loaded gun in his pocket while he was intoxicated by alcohol in Las Vegas, which placed himself and the public in great danger.

24. Consequently, cause exists to deny respondent's application for conviction of substantially related crimes and unprofessional conduct. The only

remaining question is whether respondent established sufficient rehabilitation to be issued a registration.

## **REHABILITATION**

25. The Board considers various criteria to evaluate the rehabilitation of an applicant who has been convicted of crimes and engaged in unprofessional conduct. These criteria include: (1) nature and gravity of the act(s) or offense(s); (2) evidence of subsequent acts or crimes; (3) the time that has elapsed since commission of the act(s) or crime(s); (4) the length of applicable parole or probation periods; (5) the terms and conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation; (6) whether the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant; and (7) any evidence of rehabilitation submitted by the applicant. (Cal. Code Regs., tit. 16, § 1769, subd. (b).)

26. As discussed above, respondent's offenses were serious, because they posed a grave risk of harm to himself and other persons. However, almost four years have passed since his most recent conviction. Additionally, respondent successfully completed all requirements of his criminal sentences, has not committed any subsequent crimes or wrongful acts, and has been gainfully employed for the past two years. Nevertheless, the record as a whole strongly counsels against a finding of meaningful rehabilitation for at least five reasons.

First, respondent's testimony concerning his sobriety since December 2016 is not credible given the February 2017 Las Vegas incident. The arresting officer personally observed objective signs of alcohol intoxication, which were corroborated by the bartender's statement that respondent had been drinking heavily that night.

Additionally, respondent's intoxication explains his poor judgment that evening in carrying a loaded weapon in Las Vegas, despite his prior firearms safety training and although having had 15 minutes to unload it before encountering police.

Second, respondent's credibility concerning his sobriety is further undermined by his failure to disclose on the application that he had previously used a controlled substance illegally. Although he disclosed the related conviction, his description of the conviction obfuscated the nature of the conviction.

Third, respondent has never participated in any substance abuse rehabilitation program, AA meetings, or NA meetings. His one or two sessions of therapy predate the Las Vegas incident and did not address substance abuse. Such lack of treatment raises further concerns regarding continued substance abuse or the potential for relapse when triggered by life stressors.

Fourth, although respondent professed to accept responsibility for his actions, he also repeatedly attempted to minimize his role. He described the 2017 Las Vegas incident as "just a matter of wrong place wrong time" and "defiantly [sic] a technicality offense." Such statements indicate that respondent lacks sufficient insight into his misconduct and has not yet accepted complete responsibility. (*Seide v. Com. of Bar Examiners of the State Bar of Cal.* (1989) 49 Cal.3d 933, 940 ["Fully acknowledging the wrongfulness of [one's] actions is an essential step towards rehabilitation"].)

Fifth, despite given the opportunity following the hearing, respondent did not submit any letters of support from persons familiar with his criminal history and subsequent rehabilitation efforts. He also failed to submit any performance evaluations or reference letters concerning his employment at Castle Pharmacy.

27. In sum, the overwhelming weight of the evidence shows that respondent is not sufficiently rehabilitated to support his registration, even on a probationary basis. Denial of the application is warranted to protect public health, safety, and welfare.

## **LEGAL CONCLUSIONS**

1. "Protection of the public shall be the highest priority for the California State Board of Pharmacy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Bus. & Prof. Code, § 4001.1.)<sup>1</sup>

2. Respondent has the burden of proving by a preponderance of the evidence that he is fit for the registration he seeks and that his registration application should be granted. (Evid. Code, § 115.)

3. The Board may deny a registration application if the applicant was convicted, within the preceding seven years from the date of application, of a crime substantially related to the qualifications, functions, or duties of a pharmacy technician. (§§ 480, subd. (a)(1), 4300, subd. (c), & 4301, subd. (l).) Based on Factual Findings 4 through 7, 22, and 24, respondent was convicted of two crimes substantially related to the qualifications, functions, or duties of a pharmacy technician. Thus, cause

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<sup>1</sup> All further statutory references are to the Business and Professions Code, unless otherwise specified.

exists to deny respondent's application pursuant to sections 480, subdivision (a)(1), 4300, subdivision (c), and 4301, subdivision (l).

4. "The Board may refuse a license to any applicant guilty of unprofessional conduct." (§ 4300, subd. (c).) Unprofessional conduct includes using controlled substances, dangerous drugs, or alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, any other person, or the public. (§ 4301, subd. (h).) Based on Factual Findings 4 through 7, 23, and 24, respondent engaged in unprofessional conduct by using a controlled substance and alcohol to the extent or in a manner as to be dangerous to himself, another person, or the public. Thus, cause exists to deny respondent's application pursuant to sections 4300, subdivision (c), and 4301, subdivision (h).

5. The Board considers various criteria to evaluate the rehabilitation of an applicant who has been convicted of crimes and engaged in unprofessional conduct. (Cal. Code Regs., tit. 16, § 1769, subd. (b).) Based on the Factual Findings as a whole, and specifically, Factual Findings 25 through 27, respondent did not meet his burden of demonstrating sufficient rehabilitation to be granted a registration, even on a probationary basis. Therefore, denial of his application is warranted to protect the public interest.

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## ORDER

The denial of respondent Miguel Del Toro's application for a pharmacy technician registration is AFFIRMED.

DATE: April 28, 2021

*Wim vanRooyen*

WIM VAN ROOYEN

Administrative Law Judge

Office of Administrative Hearings

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

13 In the Matter of the Statement of Issues  
Against:

14 **MIGUEL DEL TORO**

15 **Pharmacy Technician Applicant**

16 Respondent.

Case No. 7002

**STATEMENT OF ISSUES**

17  
18 **PARTIES**

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

23 2. On or about November 14, 2019, the Board received an application for a  
24 Pharmacy Technician Registration from Miguel Del Toro (Respondent). On or about  
25 November 12, 2019, Respondent certified under penalty of perjury to the truthfulness of  
26 all statements, answers, and representations in the application. The Board denied the  
27 application on June 18, 2020.

28 ///



**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. Code section 480 states, in pertinent part:

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

(1) 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 the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, 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. ...

(j) This section shall become operative on July 1, 2020.

5. Code section 4300 states, in pertinent part:

...

(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.

...

1 **STATUTORY PROVISIONS**

2 6. Code section 493 states:

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

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

- 14 (A) The nature and gravity of the offense.
- 15 (B) The number of years elapsed since the date of the offense.
- 16 (C) The nature and duties of the profession.

17 (2) A board shall not categorically bar an applicant based solely on the  
18 type of conviction without considering evidence of rehabilitation.

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

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

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

25 ...

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

...

(l) The conviction of a crime substantially related to the qualifications,  
functions, and duties of a licensee under this chapter. The record of conviction of a  
violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
States Code regulating controlled substances or of a violation of the statutes of this  
state regulating controlled substances or dangerous drugs shall be conclusive evidence  
of unprofessional conduct. In all other cases, the record of conviction shall be  
conclusive evidence only of the fact that the conviction occurred. The board may  
inquire into the circumstances surrounding the commission of the crime, in order to  
fix the degree of discipline or, in the case of a conviction not involving controlled

1 substances or dangerous drugs, to determine if the conviction is of an offense  
2 substantially related to the qualifications, functions, and duties of a licensee under this  
3 chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere  
4 is deemed to be a conviction within the meaning of this provision. The board may take  
5 action when the time for appeal has elapsed, or the judgment of conviction has been  
6 affirmed on appeal or when an order granting probation is made suspending the  
7 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the  
8 Penal Code allowing the person to withdraw his or her plea of guilty and to enter a  
9 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
10 information, or indictment.

11 ...

## 12 UNITED STATES CODE

13 8. Title 10 United States Code Annotated section 912a (Art. 112a) states, in  
14 pertinent part:

15 (a) Any person subject to this chapter who wrongfully uses, possesses,  
16 manufactures, distributes, imports into the customs territory of the United States,  
17 exports from the United States, or introduces into an installation, vessel, vehicle,  
18 or aircraft used by or under the control of the armed forces a substance described  
19 in subsection (b) shall be punished as a court-martial may direct.

20 (b) The substances referred to in subsection (a) are the following:

21 (1) Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide,  
22 methamphetamine, phencyclidine, barbituric acid, and marijuana and any  
23 compound or derivative of any such substance.

24 ...

## 25 DRUGS

26 9. Cocaine is a Schedule II Controlled Substance pursuant to Health and Safety  
27 Code section 11055, subdivision (b)(6), and a dangerous drug pursuant to Code section  
28 4022.

## 29 FIRST CAUSE FOR DENIAL OF APPLICATION

30 (Conviction of Crimes)

31 10. Respondent's application is subject to denial under Code sections 480,  
32 subdivision (a)(1), 4300, subdivision (c), and 4301, subdivision (l), in that Respondent was  
33 convicted of the following crimes, which are substantially related to the qualifications,  
34 functions, and duties of a pharmacy technician:

35 a. On or about September 27, 2016, in a court martial proceeding entitled  
36 *United States v. Airman Miguel Del Toro*, in the Department of the Air Force,

1 Headquarters 5th Bomb Wing (AFGSC), Minot Air Force Base, North Dakota,  
2 Respondent was convicted by his plea of guilty to violating Article 112a (wrongful use of  
3 controlled substances). The circumstances are that between approximately April 29,  
4 2016, and May 2, 2016, Respondent wrongfully used cocaine at or near Minneapolis,  
5 Minnesota. Respondent was sentenced to a reduction in rank, reduction in pay, and  
6 confinement for thirty (30) days.

7           b. On or about May 22, 2017, in a criminal proceeding entitled *State of*  
8 *Nevada v. Miguel Del Toro*, in the North Las Vegas Township Justice Court, Clark  
9 County, Nevada, case number 17FN0352X, Respondent was convicted by his plea of nolo  
10 contendere of violating Nevada Revised Statutes section 202.350, subdivision (1)(d)  
11 (carrying a concealed weapon), a misdemeanor. The circumstances of the crime are that  
12 on or about September 19, 2017, after responding to a report of a fight in progress at a bar,  
13 and receiving a description of two suspects, officers with the City of North Las Vegas  
14 Police Department initiated a person stop on two persons matching the description.  
15 Respondent was one of those two persons. During the stop, Respondent refused to answer  
16 the officers' questions, including a question about whether he had any weapons on his  
17 person. While patting down Respondent, the officers found a black semi-automatic 9mm  
18 handgun in his back right pocket. When the officers asked Respondent if he had a  
19 concealed carry permit, he responded that he did not. The officers observed that the  
20 weapon was loaded and had a round in the chamber. The officers also smelled the strong  
21 odor of an alcoholic beverage coming from Respondent's person and breath, and observed  
22 that Respondent had glassy bloodshot eyes, flushed face, and was slurring his speech.  
23 Respondent refused to perform any field sobriety testing and refused to submit to any  
24 evidentiary testing. Respondent was sentenced to a six (6) month incarceration,  
25 suspended, payment of \$500 fine or fifty (50) hours of community service, to stay out of  
26 trouble for one (1) year, and to forfeit the weapon.

27 ///

28 ///

1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 (Unprofessional Conduct)

3 11. Respondent's application is subject to denial under Code sections 4300,  
4 subdivision (c), and 4301, subdivision (h), for engaging in unprofessional conduct by  
5 using dangerous drugs or alcoholic beverages to the extent, or in a manner as, to be  
6 dangerous or injurious to oneself or to any other person or to the public, as set forth more  
7 particularly in paragraph 10, and its subparts, above, which are incorporated here by  
8 reference.

9 **PRAYER**

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

- 12 1. Denying the application of Miguel Del Toro for a Pharmacy Technician  
13 Registration;  
14 2. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: 10/9/2020 \_\_\_\_\_

Signature on File  
\_\_\_\_\_  
ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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