

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

In the Matter of the Statement of Issues Against:

**SANDY LUCIA SANTIAGO,
Pharmacy Technician Registration Applicant**

Respondent.

Agency Case No. 7511

OAH No. 2023050147

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 October 18, 2023.

It is so ORDERED on September 18, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

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PROPOSED DECISION

Laurie R. Pearlman, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on July 10, 2023, by videoconference.

Vivian Cho, Deputy Attorney General, appeared and represented Complainant Anne Sodergren, Executive Officer of the California Board of Pharmacy (Board).

Sandy Lucia Santiago (Respondent) appeared and represented herself.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on July 10, 2023.

FACTUAL FINDINGS

Jurisdictional Facts

1. On April 26, 2022, the Board received from respondent a Pharmacy Technician Application (Application). Respondent signed the Application under penalty of perjury on April 11, 2022.

2. The Board denied the Application on January 26, 2023. On March 21, 2023, Respondent timely requested an administrative hearing to contest the denial of the Application.

3. On April 26, 2023, while acting in her official capacity, complainant filed the Statement of Issues and this hearing ensued. All jurisdictional requirements have been met.

Criminal Conviction

4. On June 21, 2018, in the California Superior Court, County of San Diego, Case No. M246930, respondent entered a plea of guilty and was convicted of violating Vehicle Code section 23152, subdivision (b), driving a vehicle while having 0.08 percent or more by weight of alcohol in her blood (DUI), a misdemeanor. The court placed respondent on five years of summary probation with terms and conditions including performing 5 days of public service, completing a three-month DUI First-Offender program and a Mothers Against Drunk Driving program, and paying fines and fees. When Respondent failed to complete the five days of public service, on December 16, 2019, probation was revoked and then continued on the same terms with the modification that Respondent perform 40 hours of volunteer work, rather than public service. Respondent successfully completed probation on April 8, 2023.

5. The facts and circumstances of the conviction are that on April 7, 2018, Respondent had consumed alcoholic beverages with a friend to celebrate his return from overseas. Officers with the San Diego Police Department observed Respondent asleep in the driver's seat of her vehicle in Pacific Beach, California. The vehicle was stopped in the number two lane at a green traffic light, with the engine running, and the transmission in park. Respondent had an adult passenger in the front seat who was also asleep. Upon contact, officers observed Respondent displaying objective symptoms of alcohol intoxication. She failed a field sobriety test. Respondent submitted to two preliminary alcohol screening (PAS) tests which showed a blood alcohol content (BAC) of 0.167 percent and 0.182 percent. Respondent also provided two chemical breath test samples, which showed a BAC of 0.163 percent and 0.161 percent.

Testimony of Board Inspector

6. Christopher Woo, a Board Inspector for 10 years and a licensed pharmacist, testified credibly on behalf of the Board. Under the supervision of a pharmacist, pharmacy technicians are charged with the responsibility of typing up prescriptions, counting and pouring medications, labeling prescription bottles, and dispensing medications which require a prescription. They typically handle money and credit cards and would have direct access to confidential patient information. Honesty and good judgment are essential attributes of a pharmacy technician.

7. Inspector Woo further testified that Respondent's DUI conviction gives rise to concerns because respondent exhibited poor judgment and lack of self-control by driving while intoxicated. Ensuring public protection is of paramount concern to the Board.

Respondent's Evidence

8. Respondent testified candidly at hearing and was moved to tears at times. She is 34 years and served in the United States Marine Corps (Marines) from 2007 to 2014. Respondent enlisted in the Marines at age 17, handled supplies, accounting, and logistics, served in Iraq, and was honorably discharged in 2014 with the rank of Sergeant.

9. In 2015, Respondent and her husband divorced which made the already difficult transition to civilian life even more challenging for Respondent. For a few years thereafter, she made some "poor decisions" including driving while intoxicated on April 7, 2018, which she described as a "mistake." Respondent plead guilty because she "was at fault" for driving after consuming alcoholic beverages on that date. The DUI conviction made Respondent "realize what was going on in [her] life." She learned "we all make mistakes, but you have to turn it around."

10. After her discharge from the Marines, Respondent attended courses to become a licensed vocational nurse, but never took the licensing examination. From 2017 to 2020, Respondent worked at skilled nursing facilities as a medication technician. In 2021, she began working at her current job with a private investigation firm in Newhall/Santa Clarita, California. She is a full-time associate and handles client contracts. Respondent also "became healthier" and is employed part-time as a physical fitness instructor at Camp Transformation Center in North Los Angeles. Respondent states that she has never been disciplined at work or had any complaints about her work performance. Her employers are aware of her DUI conviction.

11. As part of her probation, Respondent completed a three-month DUI program and attended Alcoholics Anonymous (AA) meetings. Respondent was "able to

tell [her] story and talk it out." She last attended an AA meeting in December 2022 "to remember." When she is stressed now, she works out at the gym. Running is her "main outlet" and training others at the gym "inspires" her. She states that "it is not easy to persuade me to drink now." She consumes alcoholic beverages "on occasion," usually consisting of "a seltzer drink" but not "hard liquor." Respondent no longer drives after consuming alcohol. She takes an Uber instead. Respondent does not consider herself to be an alcoholic.

12. Respondent "was the top graduate" in her class at North-West College in Van Nuys, California, where she trained to become a pharmacy technician. She completed an internship at Glendale Adventist, and they have offered to hire Respondent when she obtains her pharmacy technician license.

LEGAL CONCLUSIONS

1. In a hearing to determine whether a license should be granted or issued, the applicant must show compliance with the statutes and rules governing the license by producing proof at the hearing. (Gov. Code, § 11504; *Coffin v. Department of Alcoholic Beverage Control* (2006) 139 Cal.App.4th 471, 475) The standard of proof upon the applicant for a license is a preponderance of the evidence. (Evid. Code, § 115.)

2. Business and Professions Code (Code) sections 480, subdivision (a)(1), and 493 provide that 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, which is substantially related to the qualifications, functions, or duties of the profession for which the application was made.

3. 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, § 1770.)

4. Substantially related crimes include a conviction for driving under the influence of alcohol. (Cal. Code Regs., tit. 16, § 1770, subd. (a)(5).) But the Board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation. (Code § 493, subd. (b)(2).)

5. In this case, respondent incurred a single DUI conviction in 2018, a serious offense. However, more than five years have elapsed since it was committed. The duties of a pharmacy technician require good judgment, adherence to rules, and concern for others' safety and welfare.

6. The crime of DUI is substantially related to the qualifications, functions and duties of a licensee because the underlying conduct evidences, to a substantial degree, a present or potential unfitness to perform the functions authorized by a pharmacy technician license in a manner consistent with the public health, safety, or welfare. (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 770.)

7. Cause exists to deny respondent's application under Code section 480, subdivision (a)(1), in conjunction with California Code of Regulations, title 16, section 1770, subdivision (a)(5), in that respondent has been convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician, as set forth in Factual Findings 4 and 5.

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8. In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code section 11400 et seq.), the Board must consider the disciplinary guidelines entitled "Disciplinary Guidelines," as revised in February 2017 (Guidelines). Deviation from the Guidelines, including the standard terms of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation, such as the presence of mitigating factors, the age of the case, and evidentiary problems. (Cal. Code Regs., tit. 16, § 1760.)

9. When considering the denial of a personal license under Code section 480, and in evaluating the rehabilitation of Respondent and her present eligibility for licensing, the Board must consider the following criteria: (1) The nature and severity of the acts or offenses under consideration as grounds for denial; (2) evidence of any acts committed subsequent to the acts or crimes under consideration as grounds for denial; (3) the time that has elapsed since commission of the acts or offenses; (4) whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant; and (5) any evidence of rehabilitation submitted by the applicant. (Cal. Code Regs., tit. 16, § 1769, subd. (b).)

10. In this case, a DUI is a serious crime and is indicative of poor judgment and lack of concern for others' welfare. The conviction has not been expunged, but Respondent has successfully completed probation. The DUI conviction and the act underlying it occurred more than five years ago. There was no evidence of any prior or subsequent contacts with law enforcement. Courts have found that "the evidentiary significance of . . . misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct." (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

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11. A pharmacy technician is responsible for dispensing dangerous drugs and controlled substances, and is entrusted with financial, personal, and confidential information about clients. Respondent remained on probation until a few months ago. Good behavior while on probation is of limited probative value given the coercive nature of judicial scrutiny. (*In re: Gossage* (2000) 23 Cal.4th 1080, 1099.)

12. The evidence presented suggests there is a diminished risk of a recurrence of respondent's past criminal conduct. Respondent was going through a particularly stressful period as she dealt with her return to civilian life and a divorce. She no longer drives after consuming alcoholic beverages and has learned healthy ways to deal with stress, including working out at the gym and running. Respondent continues to participate in AA on an occasional basis. She excelled in her pharmacy technician training program and has performed well in each workplace setting.

13. Respondent has incurred only a single alcohol-related conviction which appears to have been an isolated incident. The evidence did not establish that Respondent has an alcohol use disorder or that her licensure would pose a future threat to patients or to the public in general. Issuing a license to Respondent, immediately revoking it, and placing it on probation for three years with enumerated terms and conditions is appropriate to protect public health and safety and is reflected in the order that follows.

14. The totality of the evidence indicates that imposing standard probationary terms and conditions will adequately protect the public. Imposition of probationary terms such as biological fluid testing is not warranted to ensure public safety, nor is there any need to impose such discipline for rehabilitative purposes in light of Respondent's single DUI conviction. Since it cannot be found necessary based

upon the evidence presented, requiring biological fluid testing would be unduly punitive.

15. The order that follows is necessary and appropriate for the protection of the public. Included in the order is a requirement that Respondent undergo a clinical diagnostic evaluation by a practitioner who will furnish the Board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacy technician with safety to the public. If the evaluator recommends additional restrictions or conditions on respondent's practice based on the clinical diagnostic evaluation, the Board may adopt any such restrictions or conditions as additional probation terms.

ORDER

Upon satisfaction of all statutory and regulatory requirements for issuance of a Pharmacy Technician license, a Pharmacy Technician license shall be issued to Sandy Lucia Santiago and immediately revoked; the order of revocation is stayed and respondent's Pharmacy Technician license shall be placed on probation for three 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 seventy-two (72) hours of such occurrence:

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- 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
- 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 (2) 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 case number 7511 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within ten (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 her employer(s), and the name(s) and telephone number(s) of all of her 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 thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause (a) her direct supervisor, (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of her employer, to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 7511, 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 fifteen (15) days of the change acknowledging that he or she has read the decision in case number 7511, 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 case number 7511, 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 thirty (30) days of the effective date of this decision, and within fifteen (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 case number 7511, 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 ten (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 her 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 her pocket and/or wall license, including any indicia of licensure not previously provided to the board within ten (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 (3) 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 be suspended, and shall not work as a pharmacy technician, until he has been certified as defined by Business and Professions Code section 4202, subdivision (a)(4), has submitted proof of certification to the board, and has been notified by the board or its designee that she may begin work. Failure to achieve certification within six (6) months of the effective date shall be considered a violation of probation.

During suspension, respondent shall not enter any pharmacy area or any portion of any other board 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 do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the board. Respondent shall not have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances.

During this suspension, respondent shall not engage in any activity that requires licensure as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or dangerous devices, or controlled substances.

Failure to comply with any such suspension 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 80 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 ten (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 ten (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 thirty-six (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. Clinical Diagnostic Evaluation

Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter if required by the board or its designee, respondent shall undergo, at her own expense, clinical diagnostic evaluation(s) by a practitioner selected or approved prior to the evaluation by the board or its designee. The approved evaluator shall be provided with a copy of the board's Statement of Issues and decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacy technician with safety to the public. If the evaluator recommends restrictions or conditions on respondent's practice, including but not limited to other terms and conditions listed in these guidelines (e.g., required psychotherapy, inpatient treatment, prescription coordination and monitoring, restricted practice), the board or its designee may by written notice to respondent adopt any such restrictions or conditions as additional probation terms and conditions, violation of which shall be considered a violation of probation. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

If at any time the approved evaluator or therapist determines that respondent is unable to practice safely or independently, the licensed mental health practitioner shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board or its designee that practice may resume.

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

DATE: **08/09/2023**


Laurie Pearlman (Aug 9, 2023 15:33 PDT)

LAURIE R. PEARLMAN
Administrative Law Judge
Office of Administrative Hearings

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

12 In the Matter of the Statement of Issues
13 Against:

Case No. 7511

14 **SANDY LUCIA SANTIAGO**

STATEMENT OF ISSUES

15 **Pharmacy Technician Registration**
16 **Applicant**

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about April 26, 2022, the Board an application for a Pharmacy Technician
24 Registration from Sandy Lucia Santiago (Respondent). On or about April 11, 2022, Respondent
25 certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on January 26, 2023.

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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 **STATUTORY PROVISIONS**

6 4. Section 480 of the Code states, in pertinent part:

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

11 (1) The applicant has been convicted of a crime within the preceding seven
12 years from the date of application that is substantially related to the qualifications,
13 functions, or duties of the business or profession for which the application is made,
14 regardless of whether the applicant was incarcerated for that crime, or the applicant
15 has been convicted of a crime that is substantially related to the qualifications,
16 functions, or duties of the business or profession for which the application is made
17 and for which the applicant is presently incarcerated or for which the applicant was
18 released from incarceration within the preceding seven years from the date of
19 application. . . .

20 5. Section 493 of the Code states:

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

28 (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."

(d) This section does not in any way modify or otherwise affect the existing

1 authority of the following entities in regard to licensure:

- 2 (1) The State Athletic Commission.
- 3 (2) The Bureau for Private Postsecondary Education.
- 4 (3) The California Horse Racing Board.

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

6 **REGULATORY PROVISIONS**

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

8 (a) For the purpose of denial, suspension, or revocation of a personal or facility
9 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
10 Business and Professions Code, a crime, professional misconduct, or act shall be
11 considered substantially related to the qualifications, functions or duties of the
12 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.

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

- 14 (1) The nature and gravity of the offense;
- 15 (2) The number of years elapsed since the date of the offense; and
- 16 (3) The nature and duties of the practice, profession, or occupation that may be
performed under the license type sought or held.

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

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

21 (2) Violate or attempt to violate, directly or indirectly, or to aid, abet or
22 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
23 state, or any other jurisdiction, relating to controlled substances or dangerous drugs.

24 (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.

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

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

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1 **CAUSE FOR DENIAL OF APPLICATION**

2 **(June 21, 2018 Criminal Conviction - Driving Vehicle While Under the Influence of Alcohol)**

3 7. Respondent’s application is subject to denial under Code section 480, subdivision
4 (a)(1), in conjunction with California Code of Regulations, title 16, section 1770, subdivision
5 (a)(5), in that Respondent was convicted of a crime substantially related to the qualifications,
6 functions, or duties of a registered pharmacy technician. Specifically, on or about June 21, 2018,
7 after her guilty plea, Respondent was convicted of one (1) misdemeanor count of violating
8 Vehicle Code section 23152, subdivision (b) (driving while having a 0.08% or more by weight of
9 alcohol in her blood) in the criminal proceeding titled: *The People of the State of California v.*
10 *Sandy Lucia Santiago* (Super. Ct. San Diego County, 2018, No. M246930). The court placed her
11 on five (5) years of probation with terms and conditions.

12 8. The circumstances that led to the conviction were that on or about April 7, 2018,
13 officers observed Respondent passed out in the driver’s seat of her vehicle with the engine on and
14 the transmission in the parked position. Upon contact, officers observed Respondent displaying
15 objective symptoms of alcohol intoxication. At approximately 2:43 a.m., Respondent submitted to
16 a preliminary alcohol screening (PAS) test which resulted in a blood alcohol content (BAC) of
17 0.167%. She provided a second PAS test sample at approximately 2:50 a.m. which resulted in a
18 BAC of 0.182%. Respondent also provided two chemical breath test samples, resulting in 0.163
19 % BAC at approximately 3:21 a.m. and 0.161% BAC at approximately 3:25 a.m.

20 **PRAYER**

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

23 1. Denying the application of Sandy Lucia Santiago for a Pharmacy Technician
24 Registration;

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

DATED: 4/26/2023

Sodergren,
Anne@DCA

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

Digitally signed by Sodergren,
Anne@DCA
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