

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

In the Matter of the Statement of Issues Against:

JULIANNA NAYDINE TICKELL-TREVINO, Respondent

Agency Case No. 7535

OAH No. 2023070124


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 25, 2024.

It is so ORDERED on December 26, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
Seung W. Oh, Pharm.D.
Board President

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Case No. 7535

OAH No. 2023070124

PROPOSED DECISION

Patrice De Guzman Huber, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on September 19, 2023, from Sacramento, California.

Karen R. Denvir, Supervising Deputy Attorney General, represented Anne Sodergren (complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, in her official capacity.

Respondent Julianna Naydine Tickell-Trevino represented herself.

Evidence was received, the record closed, and the matter submitted for decision on September 19, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. On September 23, 2022, respondent submitted to the Board an application for a Pharmacy Technician license (application). On March 21, 2023, the Board denied the application based on respondent's two criminal convictions for theft; a criminal conviction for providing false information to police; and the dishonest acts underlying the convictions. Respondent appealed the denial.

2. On May 30, 2023, complainant signed and filed the Statement of Issues against respondent. Complainant alleged that the application is subject to denial due to respondent's criminal convictions and dishonest acts.

3. Respondent timely filed a request for hearing. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings pursuant to Government Code section 11500 et seq.

Respondent's 2016 Theft Conviction

4. On May 10, 2016, in the Circuit Court of Oregon, County of Washington, Case No. D151704M, respondent was convicted on a guilty plea of violating Oregon Revised Statutes (ORS) section 164.045 (theft in the second degree), a misdemeanor. The court sentenced respondent to two days in jail and ordered her to pay fines and fees. The circumstances underlying the conviction occurred on April 16, 2015 when respondent stole merchandise worth \$437 from a Macy's department store (Macy's theft). Respondent told police that she was going through a hard time, had no money, and needed new clothes.

Respondent's 2020 Theft Conviction

5. On February 20, 2020, in the Circuit Court of Oregon, County of Marion, Case No. 16CR63384, respondent was convicted on a guilty plea of violating ORS 164.045 (theft in the second degree), a misdemeanor. The court did not order jail time. Respondent was placed on informal probation for 18 months and directed to pay fines and fees. Court records show that on September 12, 2015, respondent stole merchandise worth \$746.08 from a Walmart (Walmart theft).

Respondent's 2020 False Information Conviction

6. On February 20, 2020, in the Circuit Court of Oregon, County of Marion, Case No. 17CR38704, respondent was convicted on a guilty plea of violating ORS section 162.385 (giving false information to an officer for a citation), a misdemeanor (false information case). The court did not order jail time or probation but directed respondent to pay fines and fees.

7. The circumstances underlying the conviction occurred on June 1, 2017. Police stopped respondent for speeding. Respondent told police she had a valid driver license and gave false identifying information. She admitted her true identity once booked in jail. Respondent admitted she gave false information, hoping that the vehicle would not get towed. She needed it to go to work the next day. The police learned that her driver license was suspended and she had an active warrant for the Walmart theft. Respondent did not know about the warrant.

Board Inspector's Testimony

8. Irina Top, PharmD, inspector for the Board, testified. Dr. Top has a Doctor of Pharmacy degree from the University of California, San Francisco, and a Bachelor of

Science degree in molecular cell biology from University of California, Los Angeles. She became a licensed pharmacist in 2009. In her nine years as inspector, Dr. Top has conducted approximately 400 inspections. She investigates complaints, inspects pharmacies, collects evidence, writes reports, and testifies in court.

9. Dr. Top testified that a pharmacy technician's duties include accessing personal health information (PHI), controlled substances, and money. A pharmacy technician must be honest, trustworthy, and responsible. Dr. Top reviewed respondent's application. She was concerned about how truthful, trustworthy, and responsible respondent would be in a pharmacy setting, given her theft convictions and dishonesty with police.

Respondent's Evidence

10. At hearing, respondent admitted her convictions. She has successfully complied with the terms of each criminal sentence. Respondent explained that in 2015 and 2017, she was poor, "not in the best path," and in a "terrible relationship." She did not delay resolving Macy's theft. Respondent did not know that the Walmart theft and false information case were still pending because she did not receive any updates from the court. When she learned in 2020 that they were still outstanding, she immediately resolved them.

11. Respondent has a cosmetology license in Oregon. She worked as a hairstylist and a hair design instructor from approximately 2018 until 2021. She enjoyed this profession because she likes the customer service aspect of the job. In September 2021, she moved from Oregon to California to begin pharmacy technician school.

In August 2022, respondent obtained a Pharmacy Technology certificate of completion from San Joaquin Valley College (SJVC) in Fresno, California. She maintained a 4.0 grade point average (GPA). In October 2022, respondent also obtained a Certified Pharmacy Technician (CPhT) credential from the Pharmacy Technician Certification Board. Respondent wants to become a licensed pharmacy technician because she believes it is a way for her to serve the public and use her customer service skills.

12. From October 2022 until April 2023, respondent was a pharmacy clerk at Script Pharmacy (Script) in Clovis, California. Her duties included entering prescriptions into the computer, handling the cash register, and stocking shelves. If respondent is granted a pharmacy technician license, she plans to return to Script or its sister pharmacy, Grizzly Pharmacy (Grizzly) in Fresno, California.

13. Respondent explained that she now is on a "better path" with a new way of thinking. Before, respondent had low self-esteem and was desperate. Now, she knows and has proved to herself that she deserves better in life and can accomplish anything by working hard. Respondent is proud that she maintained a 4.0 GPA and obtained her Pharmacy Technology certificate. She worked at Script to pursue this career and is welcome to return to Script or Grizzly if the license is issued.

REFERENCE LETTERS

14. Respondent submitted reference letters from a professor, a supervisor, and a colleague. Amy Li, an instructor at SJVC, taught respondent in the Pharmacy Technology program from 2021 through 2022. She described the quality of respondent's work as "superb." Ms. Li believes that respondent has the skills to be a

successful pharmacy technician. She described respondent as attentive to detail, an active listener, professional, and respectful.

James Irvine, Script's pharmacy manager, stated that he was "completely satisfied" with respondent's work and described her as an asset. He still considers her "part of the Script Pharmacy family." Madison Porter, a pharmacy technician at Script, helped train respondent and believes that she would be "valuable" as a licensed pharmacy technician.

Analysis

15. The determination whether to deny a license should be made only after consideration of the conduct of the applicant and any factors introduced in justification, mitigation, aggravation and rehabilitation. The applicant "should be permitted to introduce evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation." (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449, *Brandt v. Fox* (1979) 90 Cal.App.3d 737, 747.) Pursuant to California Code of Regulations, title 16, section 1769, the Board has set forth criteria for evaluating the rehabilitation of a license applicant. These criteria include:

(A) The nature and gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.

[¶] . . . [¶]

(C) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s)

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

[¶] . . . [¶]

(F) Evidence, if any, of rehabilitation submitted by the applicant

[¶] . . . [¶]

16. Applying the Board's criteria, respondent's actions are serious. Respondent repeatedly stole retail merchandise and also lied to the police when she was stopped for speeding. Respondent's misconduct is substantially related to the qualifications, duties, and functions of a pharmacy technician because it involves dishonesty and deceit. As Dr. Top explained, the public should have the confidence to trust that a pharmacy technician would not steal money, medication, or confidential information.

17. However, respondent successfully completed her criminal sentences, and the underlying acts occurred six to eight years ago. Since, respondent has taken commendable steps to changing her life by going to school, pursuing a career, and performing well in both school and in her employment. Script praised her work as a pharmacy clerk, and respondent is welcome to return to work if the license is issued.

18. The Board and the public expect a pharmacy technician to act with good judgment, responsibility, maturity, and integrity. When all the evidence is considered in light of the Board's rehabilitation criteria, respondent established that she has

engaged in sufficient rehabilitation since her convictions to receive a pharmacy technician license, with terms and conditions designed to protect the public.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The burden of proof is on the applicant for a license. (*Martin v. Alcohol Beverage Control Appeals Bd.* (1959) 52 Cal.2d 238.) In addition, the applicant has the burden of establishing rehabilitation, which is akin to an affirmative defense. (*Whetstone v. Bd. of Dental Examiners* (1927) 87 Cal.App. 156, 164 [the burden of proof of an affirmative defense is on the proponent of that defense].)

Applicable Law

2. Business and Professions Code section 480 provides:
 - (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

[¶] . . . [¶]

3. Business and Professions Code section 4300, subdivision (c) provides:

(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.

4. Business and Professions Code section 4301, subdivisions (f) and (l) provide:

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

[1] . . . [1]

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

[1] . . . [1]

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . . . [T]he 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 substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. . . .

[1] . . . [1]

5. California Code of Regulations, title 16, section 1770, provides:

(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:

[¶] . . . [¶]

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

[¶] . . . [¶]

Cause for Denial

6. Cause exists to deny respondent's application pursuant to Business and Professions Code sections 480, subdivision (a)(1), 4300, subdivision (c), and 4301, subdivision (l), based on respondent's convictions of crimes which are substantially related to the qualifications, functions, and duties of a pharmacy technician.

7. Cause exists to deny respondent's application pursuant to Business and Professions Code section 4300, subdivision (c), and 4301, subdivision (f), based on respondent's dishonest acts underlying her convictions.

Conclusion

8. Respondent has made commendable efforts toward rehabilitation, which demonstrate that she should be granted a probationary pharmacy technician license, with terms and conditions designed to protect the public health, safety, and welfare.

ORDER

Respondent Julianna Naydine Tickell-Trevino's application for a Pharmacy Technician license is GRANTED. Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to respondent and immediately revoked; the order of revocation is stayed and respondent is 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 72 hours of such occurrence:

- 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; or
- 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 her 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 OAH Case No. 2023070124 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 OAH Case No. 2023070124, 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 OAH Case No. 2023070124, 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 OAH Case No. 2023070124, 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 OAH Case No. 2023070124, 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 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. **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 20 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 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.

11. **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.

12. **Supervised Practice.** Within thirty (30) days of the effective date of this decision, respondent shall submit to the Board or its designee, for prior approval, the name of a pharmacist licensed by and not on probation with the Board, to serve as respondent's practice supervisor. As part of the documentation submitted, respondent shall cause the proposed practice supervisor to report to the Board in writing acknowledging that her or she has read the decision in OAH Case No. 2023070124 and is familiar with the terms and conditions imposed thereby, including the level of supervision required by the Board or its designee. Respondent may have multiple supervisors approved by the Board if necessary to meet respondent's work requirements.

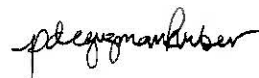
Any of the following shall be considered a violation of probation: failure to timely nominate either an initial or a replacement practice supervisor; failure to cause the practice supervisor to timely report to the Board in writing acknowledging the decision, terms and conditions, and supervision level; practicing in the absence of an approved practice supervisor after lapse of the nomination period; and/or failure to adhere to the level of supervision required by the Board or its designee. If any of these obligations or prohibitions is not met, respondent shall be prohibited from practice as a Pharmacy Technician and may not resume such practice until notified by the Board or its designee in writing.

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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.

DATE: October 18, 2023



PATRICE DE GUZMAN HUBER

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 **JULIANNA NAYDINE TICKELL-**
15 **TREVINO**

16 **Pharmacy Technician License Applicant**

17 Respondent.

Case No. 7535

STATEMENT OF ISSUES

18
19
20 **PARTIES**

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

23 2. On or about September 23, 2022, the Board of Pharmacy, Department of Consumer
24 Affairs received an application for a Pharmacy Technician License from Julianna Naydine
25 Tickell-Trevino (Respondent). On or about September 19, 2022, Julianna Naydine Tickell-
26 Trevino certified under penalty of perjury to the truthfulness of all statements, answers, and
27 representations in the application. The Board denied the application on March 21, 2023.

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1 JURISDICTION

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

5 4. Section 4300, subdivision (c), of the Code provides, in pertinent part, that the Board
6 may refuse a license to any applicant guilty of unprofessional conduct. The Board may, in its sole
7 discretion, issue a probationary license to any applicant for a license who is guilty of
8 unprofessional conduct and who has met all other requirements for licensure.

9 5. Section 4307 of the Code states in pertinent part:

10 (a) Any person who has been denied a license or whose license has been revoked or is
11 under suspension, or who has failed to renew his or her license while it was under suspension ...
12 shall be prohibited from serving as a manager, administrator, owner, member, officer, director,
13 associate, partner, or in any other position with management or control of a licensee as follows:

14 (1) Where a probationary license is issued or where an existing license is placed on
15 probation, this prohibition shall remain in effect for a period not to exceed five years.

16 (2) Where the license is denied or revoked, the prohibition shall continue until the license is
17 issued or reinstated. . . .

18 STATUTORY PROVISIONS

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

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

23 (1) The applicant has been convicted of a crime within the preceding seven
24 years from the date of application that is substantially related to the qualifications,
25 functions, or duties of the business or profession for which the application is made,
26 regardless of whether the applicant was incarcerated for that crime, or the applicant
27 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. However, the preceding seven-year limitation shall not apply in either of
the following situations:

28 (A) The applicant was convicted of a serious felony, as defined in Section

1 1192.7 of the Penal Code or a crime for which registration is required pursuant to
2 paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

3

4 7. Section 493 of the Code states:

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

12 (b)

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

16 (A) The nature and gravity of the offense.

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

18 (C) The nature and duties of the profession.

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

21 (c) As used in this section, "license" includes "certificate," "permit," "authority," and
22 "registration."

23 8. Section 4301 of the Code states, in pertinent part:

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

27 . . .

28 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
deceit, or corruption, whether the act is committed in the course of relations as a
licensee or otherwise, and whether the act is a felony or misdemeanor or not.

. . .

(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

1 state regulating controlled substances or dangerous drugs shall be conclusive
2 evidence of unprofessional conduct. In all other cases, the record of conviction shall
3 be conclusive evidence only of the fact that the conviction occurred. The board may
4 inquire into the circumstances surrounding the commission of the crime, in order to
5 fix the degree of discipline or, in the case of a conviction not involving controlled
6 substances or dangerous drugs, to determine if the conviction is of an offense
7 substantially related to the qualifications, functions, and duties of a licensee under this
8 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
9 contendere is deemed to be a conviction within the meaning of this provision. The
10 board may take action when the time for appeal has elapsed, or the judgment of
11 conviction has been affirmed on appeal or when an order granting probation is made
12 suspending the imposition of sentence, irrespective of a subsequent order under
13 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
14 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
15 dismissing the accusation, information, or indictment. . . .

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REGULATORY PROVISIONS

9. California Code of Regulations (CCR), title 16, section 1769 states, in pertinent part:

...

(b) Denial of a license.

(1) When considering the denial of a facility or personal license under Section 480 of the Business and Professions Code on the grounds that the applicant has been convicted of a crime, the board will consider whether the applicant made a showing of rehabilitation if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board will consider the following criteria:

(A) The nature and gravity of the crime(s).

(B) The length(s) of the applicable parole or probation period(s).

(C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(D) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(2) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in paragraph (1) or the denial is based on professional misconduct, the board will apply the following criteria in evaluating an applicant's rehabilitation:

1 (A) The nature and gravity of the act(s), professional misconduct, or crime(s)
under consideration as grounds for denial.

2 (B) Evidence of any act(s), professional misconduct, or crime(s) committed
3 subsequent to the act(s), professional misconduct, or crime(s) under consideration as
4 grounds for denial under Section 480 of the Business and Professions Code.

5 (C) The time that has elapsed since commission of the act(s), professional
6 misconduct, or crime(s) referred to in subparagraph (A) or (B).

7 (D) Whether the applicant has complied with any terms of parole, probation,
8 restitution or any other sanctions lawfully imposed against the applicant.

9 (E) The criteria in paragraphs (1)(A) through (E), as applicable.

10 (F) Evidence, if any, of rehabilitation submitted by the applicant, including as
11 provided in the board's Disciplinary Guidelines, identified in section 1760.

12 ...

13 10. CCR, title 16, section 1770, states:

14 (a) For the purpose of denial, suspension, or revocation of a personal or facility
15 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
16 Business and Professions Code, a crime, professional misconduct, or act shall be
17 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.

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

20 (1) The nature and gravity of the offense;

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

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

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

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

27 (2) Violate or attempt to violate, directly or indirectly, or to aid, abet or
28 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.

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

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

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

5 **FIRST CAUSE FOR DENIAL OF APPLICATION**

6 **(Criminal Convictions)**

7 11. Respondent's application is subject to denial under Code sections 480, subdivision
8 (a)(1), 4300, subdivision (c), and 4301, subdivision (d), in that she was convicted of crimes which
9 are substantially related to the qualifications, functions and duties of a pharmacy technician, as
10 follows:

11 a. On or about May 10, 2016, in a case titled *State of Oregon v. Julianna-Naydine T.*
12 *Tickell*, Washington County Circuit Court Case No. D151704M, Respondent was convicted on
13 her plea of guilty to violating Oregon Revised Statutes section 164.045, theft in the second
14 degree, a misdemeanor. Respondent was sentenced to serve two days in the county jail, and
15 ordered to pay fines and fees. The circumstances are that on or about April 16, 2015, Respondent
16 unlawfully committed theft of \$437.00 worth of merchandise from Macy's in Tigard, Oregon.

17 b. On or about February 20, 2020, in a case titled *State of Oregon v. Julianna-Naydine*
18 *Trevino Tickell*, Marion County Circuit Court Case No. 16CR63384, Respondent was convicted
19 on her plea of guilty to violating Oregon Revised Statutes section 164.045, theft in the second
20 degree, a misdemeanor. Respondent was placed on probation for 18 months, ordered to complete
21 a Theft Class, and ordered to pay fines and fees. The circumstances are that on or about
22 September 19, 2016, Respondent unlawfully committed theft of \$746.08 worth of merchandise
23 from Walmart in Salem, Oregon.

24 c. On or about February 20, 2020, in a case titled *State of Oregon v. Julianna-Naydine*
25 *Trevino Tickell*, Marion County Circuit Court Case No. 17CR38704, Respondent was convicted
26 on her guilty plea to violating Oregon Revised Statutes section 807.620, giving false information
27 to a police officer, a misdemeanor. Respondent was ordered to pay fines and fees. The
28

1 circumstances are that on or about June 1, 2017, Respondent provided a false name to a police
2 officer who issued her a citation.

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(Dishonest Acts)**

5 12. Respondent's application is subject to denial under Code sections 4300, subdivision
6 (c), and 4301, subdivision (f), in that she committed acts involving moral turpitude, dishonesty,
7 fraud, deceit, or corruption, as set forth in paragraph 11 above and incorporated here by reference.

8 **OTHER MATTERS**

9 13. Pursuant to Code section 4307, if Julianna Naydine Tickell-Trevino is denied a
10 Pharmacy Technician License, then Julianna Naydine Tickell-Trevino shall be prohibited from
11 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
12 licensee until the Pharmacy Technician License is issued.

13 **PRAYER**

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

- 16 1. Denying the application of Julianna Naydine Tickell-Trevino for a Pharmacy
17 Technician License;
- 18 2. Prohibiting a Naydine Tickell-Trevino from serving as a manager, administrator,
19 owner, member, officer, director, associate, partner, or in any other position with management or
20 control of any pharmacy licensee; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 5/30/2023

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.05.30 20:43:20 -07'00'

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

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