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2 ROB BONTA  
Attorney General of California  
3 MARICHELLE S. TAHIMIC  
Supervising Deputy Attorney General  
4 ALAN MACINA  
Deputy Attorney General  
5 State Bar No. 233540  
600 West Broadway, Suite 1800  
6 San Diego, CA 92101  
P.O. Box 85266  
7 San Diego, CA 92186-5266  
Telephone: (619) 738-9083  
8 Facsimile: (619) 645-2061  
*Attorneys for Complainant*  
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11 **BEFORE THE**  
**BOARD OF PHARMACY**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13  
14 In the Matter of the Statement of Issues Against: Case No. 7186  
15 **VAN ROWIN FERRER MANLAMBUS** **STATEMENT OF ISSUES**  
16 **Pharmacy Technician Registration 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 November 5, 2020, the Board received an application for a Pharmacy  
24 Technician Registration from Van Rowin Ferrer Manlambus (Respondent). On October 30,  
25 2020, Respondent certified under penalty of perjury to the truthfulness of all statements, answers,  
26 and representations in the application. The Board denied the application on July 23, 2021. On or  
27 about July 27, 2021, the Board received Respondent's timely request to appeal the denial of his  
28 license application.

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

9 **STATUTORY PROVISIONS**

10 5. Code section 7.5 states, in part:

11 (a) A conviction within the meaning of this code means a judgment following a  
12 plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action  
13 which a board is permitted to take following the establishment of a conviction may be  
14 taken when the time for appeal has elapsed, or the judgment of conviction has been  
15 affirmed on appeal or when an order granting probation is made suspending the  
16 imposition of sentence. However, a board may not deny a license to an applicant who  
17 is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

18 ...

19 (c) Except as provided in subdivision (b) [concerning attorneys regulated by  
20 the State Bar of California], this section controls over and supersedes the definition of  
21 conviction contained within individual practice acts under this code.

22 ....

23 6. Code section 480 states, in part:

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

28 (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...

...

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

7 (c) Notwithstanding any other provision of this code, a person shall not be  
8 denied a license on the basis of any conviction, or on the basis of the acts underlying  
9 the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41,  
10 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement.  
11 An applicant who has a conviction that has been dismissed pursuant to Section  
12 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the  
13 dismissal if it is not reflected on the report furnished by the Department of Justice.

14 ...

15 (h) "Conviction" as used in this section shall have the same meaning as defined  
16 in Section 7.5.

17 ...

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

19 7. Code section 482 states:

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

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

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

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

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

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

...

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

8. Code section 493 states:

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

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

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

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

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

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

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

9 . . .

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

11 9. Code section 4301, subdivisions (j) and (l), state:

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

14 . . .

15 (j) The violation of any of the statutes of this state, of any other state, or of the  
16 United States regulating controlled substances and dangerous drugs.

17 . . .

18 (l) The conviction of a crime substantially related to the qualifications,  
19 functions, and duties of a licensee under this chapter. The record of conviction of a  
20 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
21 States Code regulating controlled substances or of a violation of the statutes of this  
22 state regulating controlled substances or dangerous drugs shall be conclusive  
23 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
24 be conclusive evidence only of the fact that the conviction occurred. The board may  
25 inquire into the circumstances surrounding the commission of the crime, in order to  
26 fix the degree of discipline or, in the case of a conviction not involving controlled  
27 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. A plea or verdict of guilty or a conviction following a plea of nolo  
contendere is deemed to be a conviction within the meaning of this provision. The  
board may take action when the time for appeal has elapsed, or the judgment of  
conviction has been affirmed on appeal or when an order granting probation is made  
suspending the imposition of sentence, irrespective of a subsequent order under  
Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
dismissing the accusation, information, or indictment.

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1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1768, states:

3 (a) Where the board has denied an application for a license, the earliest date on  
4 which the applicant may reapply for a license is one year after the effective date of  
the denial.

5 (b) All competent evidence of rehabilitation presented will be considered upon  
6 a reapplication. The board shall use the criteria listed in section 1769 when  
considering evidence of rehabilitation.

7 11. California Code of Regulations, title 16, section 1769, subdivision (b), states:

8 (b) Denial of a License

9 (1) When considering the denial of a facility or personal license under Section  
10 480 of the Business and Professions Code on the grounds that the applicant has been  
11 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  
12 violation of parole or probation. In making this determination, the board will  
consider the following criteria:

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

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

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

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

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

19 (2) If the applicant has not completed the criminal sentence at issue without a  
20 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  
21 is based on professional misconduct, the board will apply the following criteria in  
evaluating an applicant's rehabilitation:

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

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

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

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

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

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

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

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

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

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

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

- (1) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction, governing the practice of pharmacy.
- (2) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or any law of this state, or any other jurisdiction, relating to controlled substances or dangerous drugs.
- (3) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction, relating to government provided or government supported healthcare.
- (4) Involve dishonesty, fraud, deceit, or corruption related to money, items, documents, or personal information.
- (5) Involve a conviction for driving under the influence of drugs or alcohol.

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1 **CAUSE FOR DENIAL OF APPLICATION**

2 **(November 29, 2018 Criminal Convictions for Attempted Sexual**  
3 **Assault and Attempted Sexual Abuse of a Child in February of 2018)**

4 13. Respondent’s application is subject to denial under Code sections 480, subdivision  
5 (a)(1), and 4301, subdivisions (j) and (l), because Respondent was convicted of crimes that are  
6 substantially related to the qualifications, duties, and functions of a pharmacy technician. On or  
7 about November 29, 2018, in court-martial action *United States v. Vanrowin F. Manlambus*,  
8 convened at Joint Base Pearl Harbor-Hickam, Hawaii, Convening Order No. 01-19, Respondent  
9 was found guilty of Uniform Code of Military Justice, Article 80, Sections 120BB1 (Attempted  
10 Sexual Assault of a Child), and 120BC3 (Attempted Sexual Abuse of a Child). Respondent  
11 appealed the guilty findings to the Court of Criminal Appeals for the United States Navy –  
12 Marine Corps in appellee *United States v. Varowin F. Manlambus*, Appellant, Appeal no.  
13 201900080. The Court of Criminal Appeals affirmed the findings of guilty and the sentence  
14 (reduction to the grade of E-6 and Dishonorable Discharge) in its decision that rendered the  
15 conviction as final on May 27, 2020.

16 14. The circumstances that led to the convictions are that between on or about February  
17 4, 2018, and February 5, 2018, while on duty in or near Okinawa, Japan, Respondent responded  
18 to a local on-line personal ad to meet a girl. The ad had been posted by undercover Naval  
19 Criminal Investigative Service (NCIS) agents. Despite being told multiple times that she was 15  
20 years old, Respondent questioned the “girl” about her sexual experiences and proposed sexual  
21 acts that they could engage in together. Respondent made plans to meet with the girl while her  
22 mother was at work. The “girl” asked him to bring a treat for her when he went to meet her at her  
23 apartment. Respondent went to the complex where the girl supposedly lived. When he was  
24 looking for the door to what he was told was the girl’s apartment, NCIS took Respondent into  
25 custody and seized his cell phone and the candy he brought with him. Respondent’s recent  
26 internet history revealed searches for “how do you know if a minor is trying to bait you” and  
27 “pedobating – scam online predators.”

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**PRAYER**

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

1. Denying the application of Respondent Van Rowin Ferrer Manlambus for a Pharmacy Technician Registration; and,
2. Taking such other and further action as deemed necessary and proper.

DATED: 10/11/2021

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

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