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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.

28 ///

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10 (a) Any person who has been denied a license or whose license has been revoked or is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,
28 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:

(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. . . .

9 **REGULATORY PROVISIONS**

10 9. California Code of Regulations (CCR), title 16, section 1769 states, in pertinent part:
11 ...

12 (b) Denial of a license.

13 (1) When considering the denial of a facility or personal license under Section
14 480 of the Business and Professions Code on the grounds that the applicant has been
15 convicted of a crime, the board will consider whether the applicant made a showing
16 of rehabilitation if the applicant completed the criminal sentence at issue without a
17 violation of parole or probation. In making this determination, the board will consider
18 the following criteria:

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

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

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

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

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

25 (2) If the applicant has not completed the criminal sentence at issue without a
26 violation of parole or probation, or the board determines that the applicant did not
27 make the showing of rehabilitation based on the criteria in paragraph (1) or the denial
28 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,
3 relating to government provided or government supported healthcare.

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

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

7 **FIRST CAUSE FOR DENIAL OF APPLICATION**

8 **(Criminal Convictions)**

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

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

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

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

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

24 **Sodergren,**
25 **Anne@DCA**
26 **ANNE SODERGREN**
27 **Executive Officer**
28 **Board of Pharmacy**
Department of Consumer Affairs
State of California
Complainant

Digitally signed by Sodergren,
Anne@DCA
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