

1 ROB BONTA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9441
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
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 **TIFFANY NICOLE MUNIZ**

15
16 **Pharmacy Technician Applicant**

17 Respondent.

Case No. 7912

STATEMENT OF ISSUES

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, Department of Consumer Affairs.

22 2. On or about May 28, 2024, the Board of Pharmacy, Department of Consumer Affairs
23 received an application for a Pharmacy Technician License from Tiffany Nicole Muniz
24 (Respondent). On or about May 20, 2024, Tiffany Nicole Muniz certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on July 29, 2024.

27 ///

28 ///

1 **JURISDICTION & STATUTORY PROVISIONS**

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. Code section 480 states in part:

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

10 (1) The applicant has been convicted of a crime within the preceding seven years
11 from the date of application that is substantially related to the qualifications, functions, or
12 duties of the business or profession for which the application is made, regardless of whether
13 the applicant was incarcerated for that crime, or the applicant has been convicted of a crime
14 that is substantially related to the qualifications, functions, or duties of the business or
15 profession for which the application is made and for which the applicant is presently
16 incarcerated or for which the applicant was released from incarceration within the
17 preceding seven years from the date of application. However, the preceding seven-year
18 limitation shall not apply in either of the following situations...

19 ...

20 5. Code section 481 states in part:

21 (a) Each board under this code shall develop criteria to aid it, when considering
22 the denial, suspension, or revocation of a license, to determine whether a crime is
23 substantially related to the qualifications, functions, or duties of the business or
24 profession it regulates.

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

28 (1) The nature and gravity of the offense.

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

(3) The nature and duties of the profession in which the applicant seeks
licensure or in which the licensee is licensed.

....

6. Code section 482 states in part:

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

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

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

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

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

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

9 7. Code section 4300 states in part:

10 ...

11 (c) The board may refuse a license to any applicant guilty of unprofessional
12 conduct. The board may, in its sole discretion, issue a probationary license to any
13 applicant for a license who is guilty of unprofessional conduct and who has met all
14 other requirements for licensure. The board may issue the license subject to any terms
15 or conditions not contrary to public policy, including, but not limited to, the
16 following:

17 (1) Medical or psychiatric evaluation.

18 (2) Continuing medical or psychiatric treatment.

19 (3) Restriction of type or circumstances of practice.

20 (4) Continuing participation in a board-approved rehabilitation program.

21 (5) Abstention from the use of alcohol or drugs.

22 (6) Random fluid testing for alcohol or drugs.

23 (7) Compliance with laws and regulations governing the practice of pharmacy.

24

25 8. Code section 4301 states in part:

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

...

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

...

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

20 ...

21 REGULATORY PROVISIONS

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

23 (a) For the purpose of denial, suspension, or revocation of a personal or facility
24 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
25 Business and Professions Code, a crime, professional misconduct, or act shall be
26 considered substantially related to the qualifications, functions or duties of the practice,
27 profession, or occupation that may be performed under the license type sought or held
28 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.

CAUSE FOR DENIAL

(January 10, 2019 Conviction for DUI with Injury on August 2, 2018)

10. Respondent's application is subject to denial under Code section 480, subdivision (a)(1), and Code section 4300, subdivision (c) as it relates to Code section 4301, subdivision (l), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, or duties of a pharmacy technician as follows:

a. On January 10, 2019, in the criminal matter entitled *People of the State of California v. Tiffany Nicole Muniz*, Riverside Superior Court case number BLM1800512, Respondent guilty and was convicted of count 2, misdemeanor Vehicle Code section 23153(b)- driving under the influence of alcohol with injury, with enhancements under Vehicle Code sections 23578 and 23152(B).

b. The circumstances that led to the conviction are that on August 2, 2018, at approximately 11:22 p.m., an officer with the California Highway Patrol was dispatched to a report of a traffic collision which had resulted in injuries. Upon arrival at the scene, the officer observed an overturned vehicle which had come to a rest onto its roof in the center median of the freeway. An ambulance had responded to the scene and was evaluating the driver (Respondent) and the passenger (victim). Both Respondent and the victim sustained pain to various parts of their bodies, bruising, scrapes, cuts, abrasions and unknown internal injuries. Both individuals were subsequently transported to the hospital for further care.

c. Upon contact with Respondent, the officer observed objective symptoms of alcohol intoxication including bloodshot eyes, slurred speech and the odor of alcoholic beverage emitting from Respondent's breath. The officer noted that Respondent's clothes were covered in dirt and

1 blood. The officer described Respondent's overall demeanor as "irate." Respondent declined to
2 provide a statement. Respondent's performance on two Field Sobriety Tests also demonstrated
3 intoxication. The officer conducted a record check and learned Respondent's driver's license had
4 previously been suspended for a prior DUI conviction. Respondent submitted to a preliminary
5 alcohol screening test, which resulted in a blood alcohol content (BAC) of 0.255% (11:48 p.m.)
6 and 0.27% (11:52 p.m.). Respondent's chemical breath test resulted in a BAC of 0.27% (12:54
7 a.m.) and 0.25% (12:58 a.m.).

8 d. As a result of the conviction, Respondent was sentenced to serve 120 days in jail and
9 probation for 60 months. Respondent was required to attend and complete the 18-month second
10 offender DUI program, attend a Mother's Against Drunk Driving (MADD) Victim Impact Panel,
11 enroll in an alcohol monitoring program, attend 90 AA meetings, and pay fines, fees and
12 restitution. On May 13, 2019, the Court received information that Respondent failed to enroll in
13 the 18-month second offender DUI program. As a result, on May 21, 2019, a warrant was issued.
14 On or about June 23, 2022, the warrant was recalled and on September 29, 2022, Respondent
15 filed proof of enrollment in the 18-month second offender program.

16 **PRAYER**

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

- 19 1. Denying the application of Tiffany Nicole Muniz for a Pharmacy Technician;
- 20 2. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 9/24/2024

Sodergren,
Anne@DCA
Date: 2024.09.24 18:40:39 -07'00'

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

23
24
25
26
27 SD2024803117
28