

1 XAVIER BECERRA
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3512
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

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

14 **HALEY MARIE WINK**

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

17 Respondent.

Case No. 6636

STATEMENT OF ISSUES

18 **PARTIES**

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

22 2. On or about May 2, 2018, the Board of Pharmacy, Department of Consumer Affairs
23 received an application for a Pharmacy Technician Registration from Haley Marie Wink
24 (Respondent). On or about April 21, 2017, Respondent certified under penalty of perjury to the
25 truthfulness of all statements, answers, and representations in the application. The Board denied
26 the application on December 19, 2018.

27 ///

28 ///

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. Section 4300 of the Code states in relevant part that:

6

7 (c) The board may refuse a license to any applicant guilty of unprofessional conduct.
8 The board may, in its sole discretion, issue a probationary license to any applicant for
9 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

10

11 **STATUTORY PROVISIONS**

12 5. Section 480 of the Code states in relevant part that:

13 (a) A board may deny a license regulated by this code on the grounds that the
14 applicant has one of the following:

15 (1) Been convicted of a crime. A conviction within the meaning of this section
16 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
17 Any action that a board is permitted to take following the establishment of a
18 conviction may be taken 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 the
provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

19

20 (3) (A) Done any act that if done by a licentiate of the business or profession in
question, would be grounds for suspension or revocation of license.

21

22 6. Section 4301 of the Code states:

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

25

26 (h) The administering to oneself, of any controlled substance, or the use of any
27 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
28 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
2 (k) The conviction of more than one misdemeanor or any felony involving the
3 use, consumption, or self-administration of any dangerous drug or alcoholic beverage,
4 or any combination of those substances.

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

24
25
26
27
28
REGULATORY PROVISIONS

7. California Code of Regulations, title 16, section 1770, states in pertinent part that:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Substantially Related Conviction)

8. Respondent's application is subject to denial under Code section 480 (a)(1), Code section 480 (a)(3)(A), and section 4301(l), pursuant to California Code of Regulations, title 16, section 1770 in that Respondent was convicted of an offense substantially related to the duties, functions, or qualifications of a licensee.

9. On or about June 3, 2015, in *People of the State of California vs. Haley Marie Wink*, Solano County Superior Court Case No. FCR312397, Respondent was convicted of violating

1 California Vehicle Code section 23152(b) (Driving with a Blood Alcohol of 0.08% or Higher), a
2 misdemeanor, with an enhancement of having a blood alcohol concentration (BAC) of 0.20%
3 BAC or more while driving a vehicle.

4 10. The underlying circumstances are that on or about November 26, 2014, Vacaville
5 Police conducted an enforcement stop after a 911 caller reported seeing a white Honda strike the
6 curb and center divide several times while driving eastbound. The police located the Honda and
7 observed that the vehicle had a flat tire on the left front side. The officers contacted and
8 identified Respondent as the sole occupant of the vehicle. While speaking with Respondent, the
9 officer(s) could smell the odor of alcohol from the vehicle and observed her showing symptoms
10 of intoxication such as slurred speech, and red glassy eyes. Respondent admitted to drinking four
11 Sake Bombs and one beer that evening and to having her last drink one hour prior to the
12 enforcement stop. Respondent performed poorly on Field Sobriety Tests (FSTs). Respondent's
13 Preliminary Alcohol Screening (PAS) device test results measured her blood alcohol
14 concentration at 0.222% BAC and 0.212% BAC. Further breath testing subsequent to her arrest
15 for driving under the influence, measured Respondent's blood alcohol level at .25% BAC at 0054
16 hours and .25% BAC at 0059 hours.

17 **SECOND CAUSE FOR DENIAL OF APPLICATION**

18 **(Dangerous Use of Alcohol)**

19 11. Respondent's application is subject to denial under Code section 480(a)(3)(A) and
20 section 4301(h), in that Respondent used alcohol to an extent or in a manner dangerous to herself,
21 to another person, or to the public. The circumstances are set forth in the First Cause for Denial
22 of Application, above.

23 **THIRD CAUSE FOR DENIAL OF APPLICATION**

24 **(Unprofessional Conduct)**

25 12. Respondent's application is subject to denial under Code section 480(a)(3)(A) and
26 section 4301, in that Respondent committed an offense, described in the First Cause for Denial of
27 Application, above, that if done by a Pharmacy Technician registered with the Board would be
28 grounds for suspension or revocation of the registration.

1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Substantially Related Conviction)**

3 13. Respondent's application is subject to denial under Code section 480 (a)(1), Code
4 section 480 (a)(3)(A), and section 4301(l), pursuant to California Code of Regulations, title 16,
5 section 1770 in that Respondent was convicted of an offense substantially related to the duties,
6 functions, or qualifications of a licensee.

7 14. On or about July 18, 2018, in *People of the State of California vs. Haley Marie Wink*,
8 Solano County Superior Court Case No. FCR 336993, Respondent was convicted of violating
9 California Vehicle Code section 23152(b) (Driving with a Blood Alcohol of 0.08% or Higher), a
10 misdemeanor, with a prior. The underlying circumstances are that on or about March 17, 2018,
11 California Highway Patrol (CHP) officers detained Respondent for not having a license plate on
12 the front of her vehicle. The officers noted the smell of alcohol coming from the vehicle and
13 observed that Respondent showed symptoms of intoxication, i.e. slurred speech, red glassy eyes,
14 and unsteady balance. Respondent admitted having drinks earlier that night. Respondent
15 submitted to sobriety testing. She performed poorly on FSTs and her PAS test results measured
16 her blood alcohol concentration at 0.113% BAC and 0.114% BAC. The officers subsequently
17 arrested Respondent for DUI and transported her to Solano County jail for evidentiary testing.
18 The test results measured Respondent's blood alcohol concentration as .10% BAC.

19 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

20 **(Dangerous Use of Alcohol)**

21 15. Respondent's application is subject to denial under Code section 480(a)(3)(A) and
22 section 4301(h), in that Respondent used alcohol to an extent or in a manner dangerous to herself,
23 to another person, or to the public. The circumstances are set forth in the Fourth Cause for Denial
24 of Application, above.

25 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

26 **(Unprofessional Conduct)**

27 16. Respondent's application is subject to denial under Code section 480(a)(3)(A) and
28 section 4301, in that Respondent committed an offense, described in the Fourth Cause for Denial

1 of Application, above, that if done by a Pharmacy Technician registered with the Board would be
2 grounds for suspension or revocation of the registration.

3 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

4 **(Alcohol Related Convictions)**

5 17. Respondent's application is subject to denial under section 4301(k) of the Code, in
6 that Respondent was convicted of more than one criminal offense involving the use, consumption
7 or self-administration of an alcoholic beverage, as set forth above in paragraphs 8 through 16.

8 **PRAYER**

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

- 11 1. Denying the application of Haley Marie Wink for a Pharmacy Technician
12 Registration;
- 13 2. Taking such other and further action as deemed necessary and proper.

14
15 DATED: August 2, 2019



16 ANNE SODERGREN
17 Interim Executive Officer
18 Board of Pharmacy
19 Department of Consumer Affairs
20 State of California
21 *Complainant*

22 SF2019200291
23 21498498.docx
24
25
26
27
28