

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

In the Matter of the Accusation Against:

TATIANA MARIE MIELESZKO, Respondent

Pharmacy Technician Registration No. TCH 148277

Agency Case No. 6612

DECISION AND ORDER

The attached Stipulated Surrender of License and Order 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 April 15, 2020.

It is so ORDERED on March 16, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", is written over the printed name and title.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:
13 **TATIANA MARIE MIELESZKO**
14 **40208 Davis Street**
Fremont, CA 94538
15 **Pharmacy Technician Registration No. TCH**
148277
16
17 Respondent.

Case No. 6612

OAH No. 2019090283

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

- 21 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board of
22 Pharmacy (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Susana A.
24 Gonzales, Deputy Attorney General.
- 25 2. Tatiana Marie Mieleszko (Respondent) is represented in this proceeding by attorney
26 Elliot Silver, 330 2nd Street, Suite 204, Oakland, CA 94607-8034.
- 27 3. On or about May 1, 2015, the Board issued Pharmacy Technician Registration No.
28 TCH 148277 to Tatiana Marie Mieleszko (Respondent). The Pharmacy Technician Registration

1 was in full force and effect at all times relevant to the charges brought in Accusation No. 6612
2 and will expire on July 31, 2020, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 6612 was filed before the Board, and is currently pending against
5 Respondent. The Accusation and all other statutorily required documents were properly served
6 on Respondent on May 17, 2019. Respondent timely filed her Notice of Defense contesting the
7 Accusation. A copy of Accusation No. 6612 is attached as Exhibit A and incorporated by
8 reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. 6612. Respondent also has carefully read, fully
12 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
13 Order.

14 6. Respondent is fully aware of her legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
16 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
17 to the issuance of subpoenas to compel the attendance of witnesses and the production of
18 documents; the right to reconsideration and court review of an adverse decision; and all other
19 rights accorded by the California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 6612, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
25 Registration No. TCH 148277 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation she enables the Board to issue
27 an order accepting the surrender of her Pharmacy Technician Registration without further
28 process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 148277, issued to Respondent Tatiana Marie Mieleszko, is surrendered and accepted by the Board.

1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as an application for a new license. Respondent must comply with all the laws, regulations and procedures for issuance of a new license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 6612 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application. The earliest Respondent may file an application for licensure or a petition for reinstatement is three years after the effective date of the Decision and Order in this matter.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$5,789.25 prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 6612 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 1/21/2020

DocuSigned by:

Tatiana Miesleszko

TATIANA MARIE MIELESZKO

Respondent

1 I have read and fully discussed with Respondent Tatiana Marie Mieleszko the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4
5 DATED: 1/21/2020

DocuSigned by:

Elliot Silver

94EFD981CEB34E9

ELLIOT SILVER

Attorney for Respondent

7
8 **ENDORSEMENT**

9 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
10 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

11
12 DATED: 1/22/2020

Respectfully submitted,

13 XAVIER BECERRA

Attorney General of California

14 DIANN SOKOLOFF

Supervising Deputy Attorney General

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16 

SUSANA A. GONZALES

17 Deputy Attorney General

Attorneys for Complainant

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Exhibit A

Accusation No. 6612

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation Against:

Case No. 6612

14 **TATIANA MARIE MIELESZKO**
15 **40208 Davis Street**
Fremont, CA 94538

A C C U S A T I O N

16 **Pharmacy Technician Registration No. TCH**
17 **148277**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about May 1, 2015, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 148277 to Tatiana Marie Mieleszko (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought in
26 this Accusation and will expire on July 31, 2020, unless renewed.

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

4. Section 4300.1 of the Code states:

“The expiration, cancellation, forfeiture, or suspension of a board-issued license by action of law or by order or decision of the board or a court of law, the placement of a license in retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of its jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.”

5. Section 703 of the Code states:

“An inactive healing arts license or certificate issued pursuant to this article shall be renewed during the same time period at which an active license or certificate is renewed. In order to renew a license or certificate issued pursuant to this article, the holder thereof need not comply with any continuing education requirement for renewal of an active license or certificate.

The renewal fee for a license or certificate in an active status shall apply also for renewal of license or certificate in an inactive status.”

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6. Section 4301 of the Code states:

“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 shall include, but is not limited to, any of the following:

...

“(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or omission, 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 “(h) The administering to oneself, of any controlled substance, or the use of any dangerous
2 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
3 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
4 to the extent that the use impairs the ability of the person to conduct with safety to the public the
5 practice authorized by the license.

6 . . .

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

9 . . .

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

27 . . .
28

1 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable
3 federal and state laws and regulations governing pharmacy, including regulations established by
4 the board or by any other state or federal regulatory agency.”

5 7. Section 4060 of the Code states:

6 “A person shall not possess any controlled substance, except that furnished to a person
7 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
8 doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
9 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a
10 physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5,
11 or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the
12 possession of any controlled substance by a manufacturer, wholesaler, third-party logistics
13 provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
14 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock
15 in containers correctly labeled with the name and address of the supplier or producer.

16 “This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician
17 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.”

18 8. Health and Safety Code, section 11173, subdivision (a), states:

19 “(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
20 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
21 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”

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

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

1 COST RECOVERY

2 10. Section 125.3 of the Code states, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

7 11. Code section 4021 states:

8 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
9 11053) of Division 10 of the Health and Safety Code.”

10 12. Section 4022 of the Code states

11 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in
12 humans or animals, and includes the following:

13 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
14 prescription,’ ‘Rx only,’ or words of similar import.

15 “(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale
16 by or on the order of a _____,’ ‘Rx only,’ or words of similar import, the blank to be filled
17 in with the designation of the practitioner licensed to use or order use of the device.

18 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
19 prescription or furnished pursuant to Section 4006.”

20 13. Alprazolam, also known as Xanax, is a Schedule IV controlled substance as
21 designated by Health and Safety Code section 11057, subdivision (d), and a dangerous drug under
22 Code section 4022.

23 14. Clonazepam, also known as Klonopin, is a Schedule IV controlled substance as
24 designated by Health and Safety Code section 11057, subdivision (d), and a dangerous drug under
25 Code section 4022. It is an anti-anxiety medication in the benzodiazepine family.

26 15. Lorazepam, also known by its brand name Ativan, is a Schedule IV controlled
27 substance as designated by Health and Safety Code section 11057, subdivision (d), and a
28 dangerous drug under Code section 4022. It belongs to a group of drugs called benzodiazepines.

1 FIRST CAUSE FOR DISCIPLINE

2 (Acts Involving Dishonesty, Fraud, or Deceit)

3 16. Respondent has subjected her pharmacy technician registration to discipline in that
4 she committed acts involving dishonesty, fraud, or deceit. (Bus. & Prof. Code, § 4301, subd. (f),
5 (o).) The circumstances are as follows:

6 17. On or about May 25, 2018, Respondent was employed as a pharmacy technician at
7 AIDS Healthcare Foundation (AHF) in San Francisco, California. On or about on May 25, 2018,
8 Respondent was observed on video placing tablets into her shirt. The tablets were later
9 determined to be Clonazepam 0.5 milligrams. Respondent later admitted that she also stole
10 approximately 20 tablets of Alprazolam and 20 tablets of Lorazepam from AFH for self-use prior
11 to being terminated on June 1, 2018. AFH performed an audit which revealed shortages of
12 Clonazepam, Alprazolam, and Lorazepam.

13 SECOND CAUSE FOR DISCIPLINE

14 (Unlawful Possession of Controlled Substances)

15 18. Respondent has subjected her pharmacy technician registration to discipline in that
16 she unlawfully possessed controlled substances. (Bus. & Prof Code, §§ 4301(j), (o), 4060.)
17 Specifically, Respondent unlawfully possessed Clonazepam, Alprazolam, and Lorazepam. The
18 circumstances are set forth in further detail in paragraph 17, above.

19 THIRD CAUSE FOR DISCIPLINE

20 (Obtaining Controlled Substance by Fraud, Deceit, or Subterfuge)

21 19. Respondent has subjected her pharmacy technician registration to discipline in that
22 she obtained controlled substances by fraud, deceit, or subterfuge. (Bus. & Prof. Code, § 4301,
23 subd. (j), (o); Health & Saf. Code, § 11173, subd. (a).) The circumstances are set forth in
24 paragraph 17, above.

25 FOURTH CAUSE FOR DISCIPLINE

26 (Use of Alcohol in a Dangerous or Injurious Manner)

27 20. Respondent has subjected her pharmacy technician registration to discipline in that
28 she used alcohol in a dangerous and injurious manner. (Bus. & Prof. Code, § 4301, subds. (h),
(o).) The circumstances are as follows:

21. On or about June 25, 2018, Officer 1 of the Fremont Police Department received a report of a solo vehicle collision involving a suspected intoxicated driver. Officer 1 arrived on the scene and contacted the driver of the vehicle involved in the collision, who was later identified as Respondent. Officer 1 observed damage along the majority of the passenger side of Respondent's vehicle, including a flat tire with the wheel falling off. Respondent denied drinking alcohol, however she exhibited objective signs of intoxication. Officer 1 asked Respondent to perform a series of field sobriety tests, which she failed. Respondent refused to take a preliminary alcohol screening test. Officer 1 arrested Respondent for driving under the influence of alcohol. Respondent submitted to a blood test, which indicated that she had a blood alcohol concentration of .14 percent.

FIFTH CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

22. Respondent has subjected her pharmacy technician registration to discipline in that she was convicted of a crime substantially related to the qualifications, duties, and functions of a pharmacy technician, as defined under California Code Regulations, title 16, section 1770. (Bus. & Prof. Code, § 4301, subd. (l).) Specifically, on or about February 27, 2019, in a criminal matter entitled “*The People of the State of California v. Tatiana Miesko*,” in the Alameda County Superior Court, Case No. 18-CR-012382, Respondent was convicted by plea of no contest of reckless driving (Veh. Code, § 23103/23103.5), a misdemeanor. Respondent’s sentence included 3 years of probation and serving 20 days in jail through the weekend work program. Respondent was further ordered not to drive a motor vehicle with any measureable amount of alcohol in her blood, and to attend and complete a three-month “Driving Under the Influence School.” Respondent’s conduct supporting her conviction is set forth in paragraph 21, above.

PRA YER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 148277,
issued to Tatiana Marie Mieleszko;

2. Ordering Tatiana Marie Mielezsko to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: May 10, 2019

Anne Sodergren

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

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