

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

In the Matter of the Statement of Issues Against:

HALEY MARIE WINK, Respondent

Pharmacy Technician Registration Applicant

Agency Case No. 6636

OAH No. 2020020854

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 June 18, 2020.

It is so ORDERED on May 19, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

By

Greg Lippe
Board President

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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 Against:
13 **HALEY MARIE WINK**
14 **Pharmacy Technician Registration Applicant**
15 Respondent.
16

Case No. 6636

OAH No. 2020020854

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
19 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order to be
20 submitted to the Board for approval and adoption in final disposition of the Statement of Issues.
21

22 **PARTIES**

23 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
24 (Board). She brought this action solely in her official capacity and is represented in this matter by
25 Xavier Becerra, Attorney General of the State of California, by Joshua A. Room, Supervising
26 Deputy Attorney General.

27 2. Haley Marie Wink (Respondent) is representing herself in this proceeding and has
28 chosen not to exercise her right to be represented by counsel.

3. On or about May 2, 2018, Respondent filed an application dated April 21, 2017 with the Board to obtain a Pharmacy Technician Registration. The Board denied the application on December 19, 2018. Respondent submitted an appeal on January 22, 2019.

JURISDICTION

4. Statement of Issues No. 6636 was filed before the Board, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on August 6, 2019. A copy of Statement of Issues No. 6636 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands, the charges and allegations in Statement of Issues No. 6636. Respondent has also carefully read, and understands the effects of, this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 6636. Respondent agrees that her Pharmacy Technician Application is subject to denial and agrees to be bound by the probationary terms set forth in the Disciplinary Order below.

CONTINGENCY

9. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. 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 Settlement 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.

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

11. This Stipulated Settlement and Disciplinary 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 Settlement and Disciplinary 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the application of Respondent Haley Marie Wink for registration as a Pharmacy Technician is hereby granted. Upon successful completion of all licensing requirements, a Pharmacy Technician Registration shall be issued to Respondent. Said Registration shall immediately be revoked, the order of revocation stayed, and Respondent placed on probation for a period of five (5) years, on the following terms and conditions.

1 **1. Certification Prior to Resuming Work**

2 Respondent shall be suspended, and shall not work as a pharmacy technician, until she has
3 been certified as defined by Business and Professions Code section 4202, subdivision (a)(4), has
4 submitted proof of certification to the board, and has been notified by the board or its designee
5 that she may begin work. Failure to achieve certification within twelve (12) months of the
6 effective date shall be considered a violation of probation.

7 During suspension, respondent shall not enter any pharmacy area or any portion of any
8 other board licensed premises of a wholesaler, third-party logistics provider, veterinary food-
9 animal drug retailer or any other distributor of drugs which is licensed by the board, or any
10 manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled
11 substances are maintained.

12 Respondent shall not do any act involving drug selection, selection of stock, manufacturing,
13 compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the
14 board. Respondent shall not have access to or control the ordering, distributing, manufacturing or
15 dispensing of dangerous drugs and/or dangerous devices or controlled substances.

16 During this suspension, respondent shall not engage in any activity that requires licensure
17 as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of
18 pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or
19 dangerous devices, or controlled substances.

20 Failure to comply with any such suspension shall be considered a violation of probation.

21 **2. Notification of Departure**

22 Prior to leaving the probationary geographic area designated by the board or its designee for
23 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
24 writing of the dates of departure and return. Failure to comply with this provision shall be
25 considered a violation of probation.

26 **3. Drug and Alcohol Testing**

27 Respondent, at her own expense, shall participate in testing as directed by the board or its
28 designee for the detection of alcohol, controlled substances, and dangerous drugs and/or

1 dangerous devices. Testing protocols may include biological fluid testing (urine, blood),
2 breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its
3 designee. All testing must be pursuant to an observed testing protocol, unless respondent is
4 informed otherwise in writing by the board or its designee. Respondent may be required to
5 participate in testing for the entire probation period and frequency of testing will be determined
6 by the board or its designee.

7 By no later than thirty (30) days after the effective date of this decision, respondent shall
8 have completed all of the following tasks: enrolled and registered with an approved drug and
9 alcohol testing vendor; provided that vendor with any documentation, and any information
10 necessary for payment by respondent; commenced testing protocols, including all required
11 contacts with the testing vendor to determine testing date(s); and begun testing. At all times,
12 respondent shall fully cooperate with the testing vendor, and with the board or its designee, with
13 regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to
14 cooperate timely shall be considered a violation of probation.

15 Respondent may be required to test on any day, including weekends and holidays.
16 Respondent is required to make daily contact with the testing vendor to determine if a test is
17 required, and if a test is required must submit to testing on the same day.

18 Prior to any vacation or other period of absence from the area where the approved testing
19 vendor provides services, respondent shall seek and receive approval from the board or its
20 designee to use an alternate testing vendor to ensure testing can occur. Upon approval,
21 respondent shall enroll and register with the approved alternate drug testing vendor, provide to
22 that alternate vendor any documentation required by the vendor, including any necessary payment
23 by respondent. During the period of absence of the area, respondent shall commence testing
24 protocols with the alternate vendor, including required daily contacts with the testing vendor to
25 determine if testing is required, and required testing. Any failure to timely seek or receive
26 approval from the board or its designee, or to timely enroll and register with, timely commence
27 testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be
28 considered a violation of probation.

1 Upon detection of an illicit drug, controlled substance or dangerous drug, the board or its
2 designee may require respondent to timely provide documentation from a licensed practitioner
3 authorized to prescribe the detected substance demonstrating that the substance was administered
4 or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such
5 documentation shall be provided by respondent within ten (10) days of being requested.

6 Any of the following shall be considered a violation of probation and shall result in
7 respondent being immediately suspended from practice as a Pharmacy Technician until notified
8 by the board in writing that she may resume practice: failure to timely complete all of the steps
9 required for enrollment/registration with the drug testing vendor, including making arrangements
10 for payment; failure to timely commence drug testing protocols; failure to contact the drug testing
11 vendor as required to determine testing date(s); failure to test as required; failure to timely supply
12 documentation demonstrating that a detected substance was taken pursuant to a legitimate
13 prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or
14 of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the
15 detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In
16 the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a
17 controlled substance or dangerous drug absent documentation that the detected substance was
18 taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee
19 shall inform respondent of the suspension and inform her to immediately leave work, and shall
20 notify respondent's employer(s) and work site monitor(s) of the suspension.

21 During any such suspension, respondent shall not enter any pharmacy area or any portion of
22 the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal drug
23 retailer, or any other distributor of drugs licensed by the board, or any manufacturer, or any area
24 where dangerous drugs and/or dangerous devices or controlled substances are maintained.
25 Respondent shall not practice pharmacy nor do any act involving drug selection, selection of
26 stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent
27 manage, administer, or be a consultant to any licensee of the board, or have access to or control
28 the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or devices.

1 During any such suspension, respondent shall not engage in any activity that requires the
2 professional judgment of and/or licensure as a Pharmacy Technician. Respondent shall not direct
3 or control any aspect of the practice of pharmacy, or of the manufacturing, distributing,
4 wholesaling, or retailing of dangerous drugs and/or dangerous devices.

5 Failure to comply with any such suspension shall be considered a violation of probation.
6 Failure to comply with any requirement or deadline stated by this term shall be considered a
7 violation of probation.

8 **4. Abstain from Drugs and Alcohol**

9 Respondent shall completely abstain from the possession or use of alcohol, controlled
10 substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated
11 paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a
12 necessary part of treatment. Respondent shall ensure that she is not in the same physical location
13 as individuals who are using illicit substances even if respondent is not personally ingesting the
14 drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices or controlled
15 substances, or their associated paraphernalia for which a legitimate prescription has not been
16 issued as a necessary part of treatment, or any physical proximity to persons using illicit
17 substances, shall be considered a violation of probation.

18 **5. Prescription Coordination and Monitoring of Prescription Use**

19 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
20 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
21 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
22 history with the use of alcohol, and who will coordinate and monitor any prescriptions for
23 respondent for dangerous drugs and/or dangerous devices, controlled substances or mood-altering
24 drugs. The approved practitioner shall be provided with a copy of the board's Statement of Issues
25 and decision. A record of this notification must be provided to the board or its designee upon
26 request. Respondent shall sign a release authorizing the practitioner to communicate with the
27 board or its designee about respondent's treatment(s). The coordinating physician, nurse
28 practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for

1 the duration of probation regarding respondent's compliance with this condition. If any substances
2 considered addictive have been prescribed, the report shall identify a program for the time limited
3 use of any such substances. The board or its designee may require that the single coordinating
4 physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive
5 medicine, or consult a specialist in addictive medicine. Should respondent, for any reason, cease
6 supervision by the approved practitioner, respondent shall notify the board or its designee
7 immediately and, within thirty (30) days of ceasing supervision, submit the name of a
8 replacement physician, nurse practitioner, physician assistant, or psychiatrist of respondent's
9 choice to the board or its designee for its prior approval. Failure to timely submit the selected
10 practitioner or replacement practitioner to the board or its designee for approval, or to ensure the
11 required quarterly reporting thereby, shall be considered a violation of probation.

12 If at any time an approved practitioner determines that respondent is unable to practice
13 safely or independently as a Pharmacy Technician, the practitioner shall notify the board or its
14 designee immediately by telephone and follow up by written letter within three (3) working days.
15 Upon notification from the board or its designee of this determination, respondent shall be
16 automatically suspended and shall not resume practice as a Pharmacy Technician until notified by
17 the board or its designee that practice may be resumed.

18 During any suspension, respondent shall not enter any pharmacy area or any portion of the
19 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug
20 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
21 any area where dangerous drugs and/or dangerous devices or controlled substances are
22 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,
23 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
24 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
25 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
26 dangerous devices and controlled substances. Respondent shall not resume practice until notified
27 by the board.

1 During any suspension, respondent shall not engage in any activity that requires the
2 professional judgment and/or licensure as a Pharmacy Technician. Respondent shall not direct or
3 control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling,
4 or retailing of dangerous drugs and/or dangerous devices or controlled substances.

5 Failure to comply with any requirement or deadline stated by this term shall be considered a
6 violation of probation.

7 **6. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

8 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
9 attendance at a recognized and established substance abuse recovery support group in California
10 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
11 or its designee. Respondent must attend the number of group meetings per week or month
12 directed by the board or its designee, which shall typically be at least one per week. Respondent
13 shall continue regular attendance and submit signed and dated documentation confirming
14 attendance with each quarterly report for the duration of probation. Failure to attend or submit
15 documentation thereof shall be considered a violation of probation.

16 **7. No Ownership or Management of Licensed Premises**

17 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
18 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
19 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
20 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
21 days following the effective date of this decision and shall immediately thereafter provide written
22 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
23 documentation thereof shall be considered a violation of probation.

24 **8. Obey All Laws**

25 Respondent shall obey all state and federal laws and regulations.

26 Respondent shall report any of the following occurrences to the board, in writing, within
27 seventy- two (72) hours of such occurrence:

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- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

9. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted.

10. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

11. Cooperate with Board Staff

Respondent shall timely cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of her probation, including but not limited to: timely responses to requests for information by board staff; timely compliance with directives from board staff regarding requirements of any term or

condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

12. Reporting of Employment and Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 6636 and terms, conditions and restrictions imposed.

Within thirty (30) days of the effective date of this decision, and within ten (10) days of undertaking any new employment, respondent shall report to the board in writing the name, physical address, and mailing address of each of her employer(s), and the name(s) and telephone number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in-charge, designated representative(s)-in-charge, responsible manager(s), or other compliance supervisor(s), and the work schedule, if known. Respondent shall also include the reason(s) for leaving the prior employment. Respondent shall sign and return to the board a written consent authorizing the board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board or its designee, concerning respondent's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause (a) her direct supervisor, (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of her employer, to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 6636, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. Respondent shall ensure that these acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of the change acknowledging that he or she has read the decision in case number 6636, and the terms and conditions imposed thereby.

1 If respondent works for or is employed by or through an employment service, respondent
2 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
3 of the decision in case number 6636, and the terms and conditions imposed thereby in advance of
4 respondent commencing work at such licensed entity. A record of this notification must be
5 provided to the board upon request.

6 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
7 (15) days of respondent undertaking any new employment by or through an employment service,
8 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service
9 to report to the board in writing acknowledging that he or she has read the decision in case
10 number, and the terms and conditions imposed thereby. It shall be respondent's responsibility to
11 ensure that these acknowledgment(s) are timely submitted to the board.

12 Failure to timely notify present or prospective employer(s) or failure to cause the identified
13 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
14 shall be considered a violation of probation.

15 "Employment" within the meaning of this provision includes any full-time, part-time,
16 temporary, relief, or employment/management service position as a Pharmacy Technician, or any
17 position for which a Pharmacy Technician is a requirement or criterion for employment, whether
18 the respondent is an employee, independent contractor or volunteer.

19 **13. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

20 Respondent shall further notify the board in writing within ten (10) days of any change in
21 name, residence address, mailing address, e-mail address or phone number.

22 Failure to timely notify the board of any change in employer, name, address, or phone
23 number shall be considered a violation of probation.

24 **14. Probation Monitoring Costs**

25 Respondent shall pay any costs associated with probation monitoring as determined by the
26 board each and every year of probation. Such costs shall be payable to the board on a schedule as
27 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
28 be considered a violation of probation.

1 **15. Status of License**

2 Respondent shall, at all times while on probation, maintain an active, current Pharmacy
3 Technician Registration with the board, including any period during which suspension or
4 probation is tolled. Failure to maintain an active, current Pharmacy Technician Registration shall
5 be considered a violation of probation.

6 If respondent's Pharmacy Technician Registration expires or is cancelled by operation of
7 law or otherwise at any time during the period of probation, including any extensions thereof due
8 to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
9 terms and conditions of this probation not previously satisfied.

10 **16. Practice Requirement – Extension of Probation**

11 Except during periods of suspension, respondent shall, at all times while on probation, be
12 employed as a Pharmacy Technician in California for a minimum of eighty (80) hours per
13 calendar month. Any month during which this minimum is not met shall extend the period of
14 probation by one month. During any such period of insufficient employment, respondent must
15 nonetheless comply with all terms and conditions of probation, unless respondent receives a
16 waiver in writing from the board or its designee.

17 If respondent does not practice as a Pharmacy Technician in California for the minimum
18 number of hours in any calendar month, for any reason (including vacation), respondent shall
19 notify the board in writing within ten (10) days of the conclusion of that calendar month. This
20 notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s)
21 for the interruption or reduction in practice; and the anticipated date(s) on which respondent will
22 resume practice at the required level. Respondent shall further notify the board in writing within
23 ten (10) days following the next calendar month during which respondent practices as a Pharmacy
24 Technician in California for the minimum of hours. Any failure to timely provide such
25 notification(s) shall be considered a violation of probation.

26 It is a violation of probation for respondent's probation to be extended for a total period,
27 counting consecutive and non-consecutive months, exceeding thirty-six (36) months. The board
28 or its designee may post a notice of the extended probation period on its website.

1 **17. License Surrender While on Probation/Suspension**

2 Following the effective date of this decision, should respondent cease practice due to
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
4 respondent may relinquish her license, including any indicia of licensure issued by the board,
5 along with a request to surrender the license. The board or its designee shall have the discretion
6 whether to accept the surrender or take any other action it deems appropriate and reasonable.
7 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to
8 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
9 become a part of the respondent's license history with the board.

10 Upon acceptance of the surrender, respondent shall relinquish her pocket and/or wall
11 license, including any indicia of licensure not previously provided to the board, within ten (10)
12 days of notification by the board that the surrender is accepted. Respondent may not reapply for
13 any license from the board for three (3) years from the effective date of the surrender. Respondent
14 shall meet all requirements applicable to the license sought as of the date the application for that
15 license is submitted to the board, including any outstanding costs.

16 **18. Violation of Probation**

17 If respondent has not complied with any term or condition of probation, the board shall
18 have continuing jurisdiction over respondent, and the board shall provide notice to respondent
19 that probation shall automatically be extended, until all terms and conditions have been satisfied
20 or the board has taken other action as deemed appropriate to treat the failure to comply as a
21 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
22 board or its designee may post a notice of the extended probation period on its website.

23 If respondent violates probation in any respect, the board, after giving respondent notice
24 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
25 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
26 probation, or preparation of an accusation or petition to revoke probation is requested from the
27 Attorney General, the board shall have continuing jurisdiction and the period of probation shall be
28 automatically extended until the petition to revoke probation or accusation is heard and decided.

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Exhibit A

Statement of Issues No. 6636

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

Case No. 6636

14 **HALEY MARIE WINK**

STATEMENT OF ISSUES

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

17 Respondent.

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.

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3. This Statement of Issues is brought before the Board under the authority of the

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

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.....

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(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 state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled 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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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*

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