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**SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-3210-21**

**IN THE MATTER OF  
THE APPLICATION OF  
ASHRAF T. HANNA,  
PHARMACY TECHNICIAN,  
REGISTRATION NO.  
28RWO1436300, PHARMACY  
INTERN REGISTRATION  
NO. 28RHOOO25000 FOR  
REINSTATEMENT OF  
REGISTRATIONS AND  
RESUMPTION OF THE  
PHARMACIST LICENSE  
APPLICATION PROCESS IN  
THE STATE OF NEW JERSEY.**

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Submitted June 6, 2023 – Decided August 8, 2023

Before Judges Sumners and Susswein.

On appeal from the New Jersey State Board of  
Pharmacy.

Ashraf T. Hanna, appellant pro se.

Matthew J. Platkin, Attorney General, attorney for  
respondent (Melissa H. Raksa, Assistant Attorney  
General, of counsel; Jodi C. Krugman, Deputy Attorney  
General, on the brief).

## PER CURIAM

Petitioner Ashraf T. Hanna appeals from a final agency decision by the New Jersey Board of Pharmacy (the Board) denying his requests to (1) reinstate his registrations as a pharmacy technician and pharmacy intern and (2) resume his pharmacist license application process. After carefully reviewing the record in light of the applicable legal principles and arguments of the parties, we affirm substantially for the reasons explained in the Board's seventeen-page administrative decision.

### I.

We need only briefly summarize the pertinent procedural history and facts. In 2013, Hanna admitted to stealing medications from the pharmacy where he worked. He was charged with possession of a prescription legend drug with intent to distribute. The criminal charges were dismissed in 2015 after he completed a pretrial intervention (PTI) program. In 2018, the related criminal records were expunged, although a 2019 Superior Court order made clear the expungement did not apply to the Board.

In 2016, a Provisional Order of Discipline and Denial of Licensure was filed with the Board based on Hanna's misconduct. He did not contest the allegations and instead entered into a consent order with the Board. That order

denied Hanna's then-pending application to practice as a pharmacist in New Jersey, revoked his registrations to work as a pharmacy technician or intern, prohibited him from seeking to reinstate the registrations or pursue licensure as a pharmacist for at least three years, required him to pass an ethics course, imposed monetary penalties, and required him to demonstrate fitness to practice pharmacy in a hearing before the Board prior to seeking reinstatement of his registrations.

After initially seeking reinstatement before he was eligible, Hanna waited the requisite period, completed the ethics course, paid the monetary penalties, and then renewed his request to reinstate his registrations and resume his licensure application. The hearing before the Board to demonstrate he was fit to practice pharmacy was held on March 3, 2022. Hanna testified that the thefts of pharmaceuticals never occurred and that his past admissions had been coerced.

In its final decision, the Board noted, "[g]ood moral character is a requirement for initial and ongoing licensure as a pharmacist and registration as a pharmacy intern and pharmacy technician," citing N.J.S.A. 45:14-50(c); N.J.A.C. 13:39-2.3; N.J.A.C. 13:39-2.7(b)(3); and N.J.A.C. 13:39-6.6(a)(6). The Board found Hanna's March 3, 2022 testimony was not credible. It

emphasized that he had, on multiple occasions, admitted to stealing prescription drugs and highlighted the specificity of those previous confessions. The Board found Hanna's "current testimony evinces a failure on his part not only to take responsibility for his former actions, but also to currently appreciate the reasons why that conduct is inimical to public health, safety and welfare."

In explaining its credibility finding, the Board noted that the consent order, which reaffirmed his confessions, was entered into five years after the thefts. The Board reasoned that if the theft charges were untrue and his initial admission had been coerced and false, Hanna could have challenged those charges instead of entering the consent order.

The Board also rejected Hanna's argument that the oath he took on March 3, 2022 added legitimacy to his testimony that day, noting Hanna was also under oath when he previously admitted to the crimes. Indeed, in disputing the previous admissions, Hanna's counsel told the Board that Hanna "did lie under oath. There's no doubt about that."

Nor did the Board accredit Hanna's completion of an ethics course as proof of his good character because the essay he wrote as part of that course was inconsistent with his new testimony. The Board quoted language from the essay that appeared to acknowledge culpability. The Board concluded, "[n]o one

reading [Hanna's] essay would conclude anything other than that the misconduct detailed in [Hanna]'s written statement, guilty plea and in the consent order, had in fact occurred."

Finally, the Board explained, "[a] license or registration is a privilege, not a right" and summarized the reasons why it did not believe Hanna had demonstrated fitness to be a pharmacist. It stated, "[e]ven were the Board to accept [Hanna's] version of the facts, his testimony reflects a shocking lack of understanding and insight into the seriousness of a situation that led to the revocation of two registrations and the denial of his application to become a pharmacist." The decision concluded, "[t]he Board finds that [Hanna] has not demonstrated the requisite fitness, competence and good moral character to warrant reinstatement of his registrations or to permit him to pursue licensure as a pharmacist in New Jersey at this time." Accordingly, the Board denied Hanna's requests.

Hanna raises the following contentions for our consideration:

POINT I

[HANNA] SHOULD BE GRANTED HIS PHARMACY INTERN AND PHARMACY TECHNICIAN REGISTRATIONS AND RESUME HIS PHARMACIST APPLICATION PROCESS IN THE STATE OF NEW JERSEY BECAUSE [HE] SHOULD EARN BACK HIS RIGHT TO PRACTICE

HIS PROFESSION ACCORDING TO THE US CONSTITUTION; THE RIGHT TO PRACTICE AND EARN.

POINT II

[HANNA] SHOULD BE GRANTED HIS PHARMACY INTERN AND PHARMACY TECHNICIAN REGISTRATIONS AND RESUME HIS PHARMACIST APPLICATION PROCESS IN THE STATE OF NEW JERSEY BECAUSE THE [BOARD] INTENTIONALLY VIOLATES THE NEW JERSEY SUPERIOR COURT ORDER OF DISMISSAL AND AN EXPUNGEMENT ORDER GRANTED BY THE SAME COURT.

POINT III

[HANNA] SHOULD BE GRANTED HIS PHARMACY INTERN AND PHARMACY TECHNICIAN REGISTRATIONS AND RESUME HIS PHARMACIST APPLICATION PROCESS IN THE STATE OF NEW JERSEY ACCORDING TO A CONSENT ORDER SIGNED BY [HANNA] AND THE [BOARD].

POINT IV

[HANNA] SHOULD BE GRANTED HIS PHARMACY INTERN AND PHARMACY TECHNICIAN REGISTRATIONS AND RESUME HIS PHARMACIST APPLICATION PROCESS IN THE STATE OF NEW JERSEY BECAUSE THE [BOARD] ABUSED NON-RELATED MATTERS TO DEPRIVE [HANNA] OF HIS RIGHTS TO REINSTATE HIS REGISTRATIONS AND RESUME HIS PHARMACIST APPLICATION PROCESS.

POINT V

[HANNA] SHOULD BE GRANTED HIS PHARMACY INTERN AND PHARMACY TECHNICIAN REGISTRATIONS AND RESUME HIS PHARMACIST APPLICATION PROCESS IN THE STATE OF NEW JERSEY AND [HE] SHOULD BE CIVILLY COMPENSATED BECAUSE HE IS A VICTIM OF DISCRIMINATION BY THE [BOARD].

POINT VI

[HANNA] SHOULD BE CIVILLY COMPENSATED BECAUSE HE IS A VICTIM OF DEFAMATION OF CHARACTER BY THE [BOARD] AND ITS COUNSEL.

POINT VII

[HANNA] SHOULD BE CIVILLY COMPENSATED BECAUSE HE IS A VICTIM OF A SEVERE MENTAL ANGUISH THAT HE SUFFERED FROM BECAUSE OF THE [BOARD] FOR ALMOST TEN YEARS.

II.

The scope of our review is narrow. Appellate courts review decisions "made by an administrative agency entrusted to apply and enforce a statutory scheme under an enhanced deferential standard." East Bay Drywall, LLC v. Dep't of Lab. & Workforce Dev., 251 N.J. 477, 493 (2022) (citing Hargrove v. Sleepy's, LLC, 220 N.J. 289, 301–02 (2015)). That enhanced deference stems,

in part, from "the executive function of administrative agencies." Mazza v. Bd. of Trs., Police & Firemen's Ret. Sys., 143 N.J. 22, 25 (1995).

"An agency's determination on the merits 'will be sustained unless there is a clear showing that it is arbitrary, capricious, or unreasonable, or that it lacks fair support in the record.'" Saccone v. Bd. of Trs., Police & Firemen's Ret. Sys., 219 N.J. 369, 380 (2014) (quoting Russo v. Bd. of Trs., Police & Firemen's Ret. Sys., 206 N.J. 14, 27 (2011)). The party challenging the administrative action bears the burden of making that showing. Lavezzi v. State, 219 N.J. 163, 171 (2014).

On appeal, the judicial role in reviewing an administrative action is generally limited to three inquiries:

- (1) whether the agency's action violates express or implied legislative policies, that is, did the agency follow the law;
- (2) whether the record contains substantial evidence to support the findings on which the agency based its action; and
- (3) whether in applying the legislative policies to the facts, the agency clearly erred in reaching a conclusion that could not reasonably have been made on a showing of the relevant factors.

[Allstars Auto Grp., Inc. v. N.J. Motor Vehicle Comm'n, 234 N.J. 150, 157 (quoting In re Stallworth, 208 N.J. 182, 194 (2011)).]

"When an agency's decision meets those criteria, then a court owes substantial deference to the agency's expertise and superior knowledge of a particular field." In re Herrmann, 192 N.J. 19, 28 (2007).

We next apply these principles to the matter before us.<sup>1</sup> The critical issue raised in this appeal is whether the Board's denial of Hanna's requests was arbitrary, capricious, or unreasonable. See Russo, 206 N.J. at 27. We conclude Hanna has failed to establish a basis for appellate intervention.

For one thing, we strongly agree with the Board that "good moral character" is a prerequisite to obtaining a license to engage in the practice of pharmacy. N.J.S.A. 45:14-50(c). The Board had ample support for its conclusion that Hanna does not possess the requisite moral character to be entrusted with the responsibilities of a licensed pharmacist. It properly considered the theft of pharmaceuticals that Hanna confessed to, as well as the related disciplinary actions Hanna consented to. Further, the fundamental inconsistency between the essay Hanna wrote to complete his Board-imposed

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<sup>1</sup> We note that Hanna's amended notice of appeal only references the June 20, 2022 administrative decision denying his requests to reinstate his registrations and resume his application process. Accordingly, his arguments to overturn the October 11, 2019 order that clearly and explicitly denied his motion to apply the 2018 expungement order to the Board are not before us. Relatedly, his novel claim for damages based on alleged torts by the Board are not properly before us. We decline to address those issues.

ethics course and his March 3, 2022 testimony demonstrates his lack of candor is not limited to the past.

The crux of Hanna's argument is that the dismissal of the charges against him after his completion of a PTI program constitutes proof that he did not steal pharmaceutical drugs. That argument misconstrues the meaning of a PTI dismissal. Hanna also suggests that his admission to PTI was predicated on the State's acknowledgement of his innocence; but if that were true, the charges would have been dismissed without requiring completion of the PTI program.

We recognize that the eventual dismissal of the criminal charges was with prejudice, meaning Hanna is no longer in jeopardy of criminal prosecution for the pharmaceutical thefts. But that does not mean the Board cannot consider all aspects of his moral character, especially given that an order expressly made clear the expungement of criminal records did not apply to the Board. Judge Robert Jones, who issued the original expungement order and subsequently denied Hanna's motion to add the Board to that order, plainly stated, "while Hanna believes he is entitled to have the [Board] honor his expungement order, . . . he is not."


The Board acted within its discretion in finding that Hanna's present denial of the thefts is belied by the 2013 handwritten statement he provided to

his employer. He acknowledged in that signed statement that it was being made "of [his] own free will." In the statement, he unambiguously and unequivocally admitted to stealing drugs from his employer to give to his uncle on at least five separate occasions. According to that detailed statement, the uncle owned a pharmacy in New York but was in a "bad financial situation" and wanted to sell the stolen medicine. In addition to giving specific details of the thefts, Hanna's written statement offered to return the stolen medicine or its cash value—an offer markedly inconsistent with his claim of innocence. On this record, the Board acted well within its discretion in finding that that his March 2022 testimony before them was not credible.

In sum, there is substantial, credible evidence in the record to support the Board's determination that Hanna presently lacks the moral character required to work in the pharmaceutical industry. Hanna has thus failed to show the Board's decision was arbitrary, capricious, or unreasonable. See Russo, 206 N.J. at 27.

To the extent we have not specifically addressed them, any remaining arguments raised by Hanna lack sufficient merit to warrant discussion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.  
  
CLERK OF THE APPELLATE DIVISION