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

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

Case No. 7233

STATEMENT OF ISSUES

13 **SHERELL AMBER JOHNSON**

14 **Pharmacy Technician Registration**
15 **Applicant**

Respondent.

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17 **PARTIES**

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

20 2. On or about August 17, 2021, the Board of Pharmacy (Board) received an application
21 for a Pharmacy Technician Registration from Sherell Amber Johnson (Respondent). On or about
22 August 12, 2021, Sherell Amber Johnson certified under penalty of perjury to the truthfulness of
23 all statements, answers, and representations in the application. The Board denied the application
24 on December 9, 2021.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Statement of Issues is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code (Code) unless
28 otherwise indicated.

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4. Section 480 of the Code states:

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

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application.

....

5. Section 493, subdivision (a) of the Code states:

Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

REGULATORY PROVISIONS

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

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.

CONTROLLED SUBSTANCE

7. "Cocaine," is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(6) and is categorized as a dangerous drug pursuant to section 4022.

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(October 2, 2019 Criminal Conviction – Possession of Drug Not for Interstate Commerce on**
3 **August 27, 2019)**

4 8. Respondent's application is subject to denial under Code sections 480, subdivision
5 (a)(1) and California Code of Regulations, title 16, section 1770, in that Respondent was
6 convicted of a crime substantially related to the qualifications, functions, or duties of a licensed
7 pharmacy technician. Specifically, on October 2, 2019, Respondent was convicted of one
8 misdemeanor count of violating Nevada Revised Statutes section 454.351 [possession of drug not
9 for interstate commerce] in a criminal proceeding titled *The State of Nevada v. Sherell Johnson*
10 (Justice Ct. Clark County, 2019, No. 19F17764X). The court sentenced Respondent to serve 60
11 days in jail (sentence suspended - concurrent to Case No. 19F06486X), ordered her to complete
12 50 mandatory hours of community service, attend drug counseling (short term), stay out of
13 trouble, and pay fines and restitution. The circumstances surrounding the conviction are that on or
14 about August 27, 2019, Respondent was found to be in possession of a drug not to be introduced
15 into interstate commerce, to wit: Cocaine.

16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

17 **(August 28, 2019 Criminal Conviction – Possession of Drug Not for Interstate Commerce on**
18 **March 12, 2019)**

19 9. Respondent's application is subject to denial under Code sections 480, subdivision
20 (a)(1) and California Code of Regulations, title 16, section 1770, in that Respondent was
21 convicted of a crime substantially related to the qualifications, functions, or duties of a licensed
22 pharmacy technician. Specifically, on August 28, 2019, Respondent was convicted of one
23 misdemeanor count of violating Nevada Revised Statutes section 454.351 [possession of drug not
24 for interstate commerce] in a criminal proceeding titled *The State of Nevada v. Sherell Johnson*
25 (Justice Ct. Clark County, 2019, No. 19F06486X). The court sentenced Respondent to serve 60
26 days in jail (sentence suspended), ordered her to complete 50 hours of community service (in lieu
27 of fine), attend drug counseling (short term), stay out of trouble, and pay fines and restitution. The

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1 circumstances surrounding the conviction are that on or about March 12, 2019, Respondent was
2 found to be in possession of a drug not to be introduced into interstate commerce, to wit: Cocaine.

3 **THIRD CAUSE FOR DENIAL OF APPLICATION**

4 **(Acts Warranting Denial of Licensure)**

5 10. Respondent's application is subject to denial under Code section 480 and California
6 Code of Regulations, title 16, section 1770, in that Respondent committed acts which if done by a
7 licentiate of the business and profession in question would be grounds for suspension or
8 revocation of her license. Complainant refers to, and by this reference incorporates, the
9 allegations set forth above in paragraphs 8 and 9, inclusive, as though set forth fully.

10 **PRAYER**

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

- 13 1. Denying the application of Sherell Amber Johnson for a Pharmacy Technician
14 Registration; and
15 2. Taking such other and further action as deemed necessary and proper.

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17 DATED: 3/24/2022

Signature on File

18 ANNE SODERGREN
19 Executive Officer
20 Board of Pharmacy
21 Department of Consumer Affairs
22 State of California
23 *Complainant*

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