

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

In the Matter of the Statement of Issues Against:

SHERELL AMBER JOHNSON, Respondent

Agency Case No. 7233

OAH No. 2022050366

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge 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 February 8, 2023.

It is so ORDERED on January 9, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

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Agency Case No. 7233

OAH No. 2022050366

PROPOSED DECISION

Erlinda G. Shrenger, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on October 18, 2022.

Matthew Beasley, Deputy Attorney General, represented Anne Sodergren (complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Sherell Amber Johnson (respondent) was present and represented herself.

Oral and documentary evidence was received. The record was held open for respondent to upload to Case Center online court records by October 21, 2022, and for complainant to upload to Case Center a written response or objections by October 28, 2022. Respondent timely uploaded four pages to Case Center, which were collectively marked as Exhibit A. The four pages consisted of screen shots from the

criminal court online docket for respondent's cases. Complainant's written objection and response to Exhibit A was timely uploaded to Case Center and marked as Exhibit 8.

Complainant objected to Exhibit A on the grounds it is an incomplete copy of the court docket and argued that certain inferences should be drawn from respondent's failure to provide a complete copy. Complainant's arguments were not persuasive, and her objections were overruled. Exhibit A was admitted pursuant to Government Code section 11513, subdivisions (c) and (d), to explain and supplement respondent's testimony and other court records (Exhibits 3 and 4) presented at the hearing.

The record closed and the matter was submitted for decision on October 28, 2022.

FACTUAL FINDINGS

Jurisdictional Matters

1. On August 17, 2021, the Board received an application for a pharmacy technician license from respondent. The application was signed by respondent and dated August 12, 2021. By signing the application, respondent certified "to the truth and accuracy of all statements, answers, and representations made in this application." (Exh. 7, p. A77.)

2. By letter dated December 9, 2021, the Board notified respondent that her application was denied based on her criminal history. The letter also notified respondent of her appeal rights.

3. On December 30, 2021, respondent requested a hearing to appeal the Board's decision's denying her application. On March 24, 2022, complainant filed the Statement of Issues in her official capacity. All jurisdictional requirements have been met.

Controlled Substance / Dangerous Drug

4. 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 Health and Safety Code section 4022.

Respondent's Criminal History

CASE No. 19F06486X

5. On August 28, 2019, in the Justice Court, Las Vegas Township, Clark County Nevada, case number 19F06486X, respondent was convicted on her plea of nolo contendere to one misdemeanor count of violating Nevada Revised Statutes section 454.351, possession of drug not for interstate commerce (cocaine).

6. The facts underlying this conviction are: On March 12, 2019, respondent was arrested for possession of a controlled substance (cocaine). A criminal complaint charging respondent with that offense was filed on May 6, 2019. Pursuant to plea negotiations, respondent was convicted of the lesser included offense of possession of a drug not for interstate commerce.

7. Respondent was sentenced according to the following terms and conditions: drug counseling (short term) or 10 Narcotics Anonymous (NA) meetings; 50 hours of community service (in lieu of \$500 fine); suspended jail sentence of 60 days; and stay out of trouble.

8. According to court records, respondent completed the court-ordered drug counseling in January 2020. (Exh. 3, p. A44.) However, bench warrants were issued for respondent's arrest when she failed to appear for status check hearings and failed to make payments on the \$500 fine. (*Id.*, pp. A45, A51.) After the court gave respondent a "last chance warning" on June 29, 2021, respondent resumed making payments in August, October, and December 2021. (*Id.*, pp. A47 to A50.) As of February 12, 2022, respondent's unpaid fine balance was \$175 (or 18 community service hours). (*Id.*, p. A51.) At hearing, respondent presented a screen shot of an online court docket with an entry stating, "All fees paid in 19F06486X." (Exh. A, p. Z4.)

CASE No. 19F17764X

9. On October 2, 2019, in the Justice Court, Las Vegas Township, Clark County Nevada, case number 19F17764X, respondent was convicted on her plea of nolo contendere to one misdemeanor count of violating Nevada Revised Statutes section 454.351, possession of drug not for interstate commerce (cocaine).

10. The facts underlying this conviction are: On August 27, 2019, one day before her conviction in case number 19F06486X, respondent was arrested for possession of a controlled substance (cocaine). A criminal complaint charging respondent with that offense was filed on September 17, 2019. Pursuant to plea negotiations, respondent was convicted of the lesser included offense of possession of a drug not for interstate commerce.

11. Respondent was sentenced according to the following terms and conditions: drug counseling (short term); 50 hours of mandatory community service; suspended jail sentence of 60 days concurrent to case number 19F06486X; and stay out of trouble.

12. According to court records, respondent provided proof of completion of drug counseling at a status check hearing on January 16, 2020. (Exh. 4, p. A58.) As of September 30, 2020, respondent completed only 4.5 hours of the 50 hours of mandatory community service. (*Id.*, p. A61.) On March 3, 2021, the court converted the outstanding 45.5 hours of mandatory community service to a fine of \$455, concurrent with the fine in case number 19F06486X. (*Id.*, p. A62.) As of May 4, 2021, respondent's outstanding fine balance in case number 19F17764X was \$455. (*Id.*, p. A63.) The court record for a status check hearing on January 5, 2022, indicated there was a \$175 fine balance due in case number 19F06486X but made no mention of the \$455 fine balance in case number 19F17764X. (*Id.*, p. A65.) At hearing, respondent presented a screen shot of an online court docket for case number 19F17764X containing an entry, "Case Closed – Requirement(s) Completed." (Exh. A, p. Z4.) The online court docket, however, contained no information indicating if and how the \$455 fine balance was resolved as part of the case closure.

13. At hearing, respondent did not dispute her two arrests and convictions in 2019 for possession of cocaine not for interstate commerce, and acknowledged she was using cocaine. She testified she had outstanding bench warrants at the time of her arrests on March 12, 2019, and August 27, 2019. For her March 12 arrest, respondent testified the police searched her car and "found little bags of cocaine." Similarly, her August 27 arrest resulted from the police searching her car and finding cocaine.

Testimony of Board Inspector

14. Sheryl Ross-Hustana has been employed as an inspector for the Board for five years. Prior to the Board, Ms. Ross-Hustana managed pharmacy departments in hospitals and clinics for over 20 years. Ms. Ross-Hustana holds a Doctor of Pharmacy degree from the University of Southern California. She is licensed as a

pharmacist in California and Nevada. Her education and experience are summarized in her curriculum vitae, admitted as Exhibit 5. Ms. Ross-Hustana testified credibly regarding the duties and responsibilities of a pharmacy technician and matters regarding the regulation of controlled substances and other drugs.

15. Ms. Ross-Hustana knows the duties and functions of pharmacy technicians. As a pharmacist, she worked alongside pharmacy technicians. As the manager of pharmacy departments in hospitals, Ms. Ross-Hustana managed pharmacy technicians, created their job descriptions, and conducted their annual performance evaluations.

16. In general, pharmacy technicians work alongside pharmacists and have access to all drugs and medications and confidential patient information. Ms. Ross-Hustana explained pharmacists oversee the work of pharmacy technicians but are not looking over the technician's shoulder all the time. She testified pharmacy technicians do a lot of the "hands on work," which in a hospital includes counting out medications and delivering medications to the nursing floor, while in a retail store, pharmacy technicians' duties include counting out medications and entering information in the records.

17. Ms. Ross-Hustana testified pharmacy technicians have access to controlled substances all the time. Depending on the setting, the pharmacy technician may count out the drugs to fill a prescription, or they may be responsible to stock all types of drugs. In California, pharmacy is a highly regulated industry. Ms. Ross-Hustana testified pharmacy technicians must follow the laws and regulations relating to pharmacy, and "they must absolutely have a healthy respect to follow the law." There is a potential for patient harm if the laws and regulations are not followed.

18. Ms. Ross-Hustana testified that respondent's two convictions for cocaine possession are related to the duties of a pharmacy technician. A pharmacy technician must respect the law. Respondent's two convictions indicate she does not highly regard the law. Moreover, cocaine is an addictive drug. Pharmacy technicians have access to many types of drugs in performing their duties, which presents lots of temptation. Ms. Ross-Hustana testified she would not feel comfortable having a person with a history of interacting with illicit drugs as a pharmacy technician.

19. Ms. Ross-Hustana testified that having two convictions for cocaine possession would constitute unprofessional conduct for a person who is a registered pharmacy technician. Based on her experience, the pharmacy technician's registration would be revoked. Ms. Ross-Hustana explained that a pharmacy technician needs to be very trustworthy, uphold the letter of the law, and have good morals and ethics. Possession of illicit drugs, such as cocaine, does not reflect respect for the law.

20. Ms. Ross-Hustana reviewed respondent's application for a pharmacy technician registration. Ms. Ross-Hustana noted that respondent answered "No" to Item 2 of the application, which asked, "Have you previously engaged in the illegal use of controlled substances?" (Exh. 7, p. A75.) Ms. Ross-Hustana found this answer was not truthful because, based on the documents she reviewed, respondent was arrested with cocaine. Ms. Ross-Hustana noted respondent also answered "No" to Item 3 of the application, which asked, "Do you currently participate in a substance abuse program or have previously participated in a substance abuse program in the past five years?" (*Ibid.*) Ms. Ross-Hustana found respondent's "No" answer was not truthful because the documents she reviewed indicated respondent participated in a substance abuse program as a sentencing condition for her 2019 convictions. Ms. Ross-Hustana testified respondent's failure to be truthful on her application was "not a good thing."

21. At hearing, respondent, in her testimony, admitted both of her "No" answers to Items 2 and 3 of her application were "not true." She claimed she "read the question wrong" and "went through the screens fast" when she filled out the application. Respondent's explanations were not credible. Items 2 and 3, on their face, pose simple and straightforward questions.

Rehabilitation

22. Respondent is 29 years old. Respondent testified both of her convictions in 2019 occurred when she was "in a bad place" and was not herself. At that time, she was "lost," "did bad things," and was "messing with the wrong people." Respondent testified she started her "drug habit" and "went wild." Respondent contends she has "changed her life" since her criminal convictions in 2019. She made sure to complete all the requirements for her criminal convictions. She stayed out of trouble, completed drug counseling, and paid her fines.

23. Respondent testified she completed a drug counseling program in July 2020. The program helped her understand how drugs affect a person and helped her "look at things differently." Respondent testified she was required to complete 10 hours of online courses and then take tests about the course materials. In addition, respondent testified she voluntarily participated in personal therapy in 2020. Respondent presented no documentation to corroborate her testimony. Respondent testified she is not currently receiving any therapy and is not currently attending NA meetings.

24. Respondent testified she attended American Career College and graduated in October 2021. In May 2022, she began working full-time as a lab technician for Dr. Pepper in Victorville, where she currently works. Prior to Dr. Pepper,

respondent worked for two months in 2022 for a Walgreens pharmacy in Rialto, where she did customer service but was not allowed to handle drugs. Respondent left that job because of the travel distance between her home in Victorville and the pharmacy's location in Rialto.

25. Respondent contends her application for a pharmacy technician license should not be denied. Respondent feels she is in a "good place in life" and is a better person than she was at the time of her 2019 convictions. She no longer uses illegal drugs, she has a full-time job, and her life is stable.

LEGAL CONCLUSIONS

Legal Principles

1. Pursuant to Business and Professions Code section 480, subdivision (a)(1), the Board may deny a license on the grounds that the applicant has been convicted of a crime only if: "(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 application is made, . . . "

2. Under California Code of Regulations, title 16, section 1770, subdivision (a), "a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of the practice, profession, or occupation that may be performed under the license type sought or held if to a substantial degree it evidences present or potential unfitness of an applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare."

3. In determining whether a crime or act is “substantially related,” the Board will consider the following criteria: “(1) The nature and gravity of the offense; [¶] (2) The number of years elapsed since the date of the offense; and [¶] (3) The nature of the duties of the practice, profession, or occupation that may be performed under the license type sought or held.” (Cal. Code Regs., tit. 16, § 1770, subd. (b).)

4. Under the Board’s regulations, crimes or acts that are deemed to be “substantially related” include, but are not limited to, those which “[v]iolate or attempt to violate, directly or indirectly, . . . any law of this state, or any other jurisdiction, relating to controlled substances or dangerous drugs.” (Cal. Code Regs., tit. 16, § 1770, subd. (c)(2).)

Cause for Denial of Application

5. As alleged in the First Cause for Denial of Application, cause exists to deny respondent’s application, pursuant to Business and Professions Code section 480, subdivision (a)(1), and California Code of Regulations, title 16, section 1770, in that, on October 2, 2019, in the State of Nevada, respondent was convicted of possession of a drug (cocaine) not for interstate commerce, which is a crime substantially related to the qualifications, functions, and duties of a licensed pharmacy technician, based on Factual Findings 4, 9, 10, 13 and 18, and Legal Conclusion 7.

6. As alleged in the Second Cause for Denial of Application, cause exists to deny respondent’s application, pursuant to Business and Professions Code section 480, subdivision (a)(1), and California Code of Regulations, title 16, section 1770, in that, on August 28, 2019, in the State of Nevada, respondent was convicted of possession of a drug (cocaine) not for interstate commerce, which is a crime substantially related to

the qualifications, functions, and duties of a licensed pharmacy technician, based on Factual Findings 4, 5, 6, 13 and 18, and Legal Conclusion 7.

7. Both of respondent's convictions were for possession of a drug (cocaine) not for interstate commerce, in violation of Nevada Revised Statutes section 454.351. That statute provides, in pertinent part: "Any person within this State who possesses . . . any drug which may not be lawfully introduced into interstate commerce . . . is guilty of a misdemeanor." Respondent's crimes are "substantially related" because they evidence her present and potential unfitness to perform the functions authorized by a pharmacy technician license in a manner consistent with the public health, safety, or welfare. Respondent's convictions involved her possession of cocaine, an addictive controlled substance, which she also admitted using. The criminal court ordered respondent to complete drug counseling as part of her sentence. Respondent's illegal possession and use of cocaine is inconsistent with the duties of a licensed pharmacy technician. In addition, respondent's crimes are deemed to be "substantially related" because they involved the violation of the law of another jurisdiction (Nevada) relating to controlled substances or dangerous drugs. (Cal. Code Regs., tit. 16, § 1770, subd. (c)(2).)

8. Cause does not exist to deny respondent's application based on the Third Cause for Denial of Application, set forth at paragraph 10 of the Statement of Issues. (Exh. 1, p. A12.) The Third Cause for Denial of Application alleges respondent's application is subject to denial under Business and Professions Code section 480 and California Code of Regulations, title 16, section 1770, on the grounds that respondent committed acts which, if done by a Board licensee, would be grounds for suspension or revocation of their license. However, no such ground for denial is provided in the cited statute and regulation.

9. In his closing argument, complainant's counsel argued respondent's application was subject to denial under Business and Professions Code section 4301, subdivisions (j), (k), and (l), for engaging in conduct that would be considered unprofessional conduct and grounds for disciplinary action if done by a Board licensee. However, Business and Professions Code section 4301 is not cited in the Statement of Issues as a legal basis for denying respondent's application. At hearing, complainant's counsel made no request to amend the Statement of Issues to include grounds for denial pursuant to Business and Professions Code section 4301. Therefore, the Third Cause for Denial of Application set forth in the Statement of Issues is dismissed.

Rehabilitation

10. California Code of Regulations, title 16, section 1769, subdivision (b)(1) and (2), set forth the criteria for rehabilitation when considering the denial of a license.

11. Under section 1769, subdivision (b)(1), when considering the denial of a license under Business and Professions Code section 480 on the grounds that the applicant has been convicted of a crime,

. . . the board will consider whether the applicant made a showing of rehabilitation if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board will consider the following criteria:

(A) The nature and gravity of the crime(s).

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(B) The length(s) of the applicable parole or probation period(s).

(C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(D) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(E) The extent to which the terms and conditions of parole or probation were modified, and the reason(s) for the modification.

12. The rehabilitation criteria under section 1769, subdivision (b)(2), apply if the applicant "has not completed the criminal sentence at issue without a violation of parole or probation, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in paragraph (1) or the denial is based on professional misconduct[.]" In this situation, the board will apply the following criteria in evaluating the applicant's rehabilitation:

(A) The nature and gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.

(B) Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for

denial under Section 480 of the Business and Professions Code.

(C) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subparagraph (A) or (B).

(D) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(E) The criteria in paragraphs (1)(A) through (E), as applicable.

(F) Evidence, if any, of rehabilitation submitted by the applicant, including as provided in the board's Disciplinary Guidelines, identified in section 1760.

13. In this case, respondent's rehabilitation is evaluated under the criteria of section 1769, subdivision (b)(2). Section 1769, subdivision (b)(1), is not applicable because respondent did not complete the sentences for her 2019 criminal convictions without violating the sentence terms. Bench warrants for her arrest were issued when she failed to appear at status check hearings or make payments on the court-ordered fines. The criminal court issued a "last chance warning," after which respondent resumed making payments. (See Factual Findings 8 and 12.)

14. Applying the criteria of section 1769, subdivision (b)(2), subparagraphs (A) through (F), the nature of respondent's crimes involved the unlawful possession of cocaine, which is a serious offense for a pharmacy technician applicant. During the

three years that have passed since respondent's arrests and convictions in 2019, respondent has not committed any subsequent criminal offenses. As part of her criminal sentence, respondent was required to complete a drug counseling program, which she did. However, respondent was under the supervision of the criminal court during the past three years. Good behavior while on probation (or under court supervision) is generally entitled to little weight as evidence of rehabilitation, since people have a strong incentive to obey the law while under the supervision of the criminal justice system. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.)

15. Respondent has engaged in recent conduct that raises concerns about her honesty and trustworthiness to perform duties authorized by a pharmacy technician license. When respondent signed her application on August 12, 2021, she certified that all statements, answers, and representations made in the application were true and accurate. At hearing, respondent admitted her "No" answers to Items 2 and 3 of the application were untrue. (Factual Finding 20.) Respondent's untrue answers on the application indicate she does not fully understand and appreciate her obligation, as an applicant and potential licensee, to be honest and truthful in all licensing related matters.

16. Respondent complied with some of the terms of her criminal sentences, in that she attended drug counseling, paid some of the fines, and performed some of the community service hours. The terms of sentence for respondent's October 2, 2019 conviction were modified because she completed only 4.5 hours of the court-ordered 50 hours of mandatory community service as of March 3, 2021. The court converted the outstanding 45.5 hours of mandatory community service into a \$455 fine. Although respondent presented screen shots of online court dockets indicating the fines in case number 19F06486X were paid, the online dockets contained no

information explaining if and how the \$455 fine in case number 19F17764X was resolved prior to the case being closed.

17. Respondent did not present evidence of rehabilitation from sources other than herself. Evidence from outside sources could have lent credibility or substance to respondent's own testimony of rehabilitation. "Favorable testimony of acquaintances, neighbors, friends, associates and employers with reference to their observation of the daily conduct and mode of living" can be helpful in determining whether a person seeking licensure is rehabilitated. (See, *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309, 317 – 318.)

18. Based on the foregoing, the evidence did not establish respondent is sufficiently rehabilitated to justify granting her application for a pharmacy technician license at this time, even on a probationary basis. Therefore, the application is denied. More time is needed for respondent to establish rehabilitation from her 2019 criminal convictions. The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Respondent is encouraged to continue her rehabilitation efforts.

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ORDER

The application of Sherell Amber Johnson for a pharmacy technician license is denied.

DATE: 11/22/2022

Erlinda G. Shrenger
Erlinda G. Shrenger (Nov 22, 2022 10:46 PST)

ERLINDA G. SHRENGER

Administrative Law Judge

Office of Administrative Hearings

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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.

16
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.

16
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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27 Jz(2/22/22)