1	XAVIER BECERRA				
2	Attorney General of California LINDA K. SCHNEIDER				
3	Senior Assistant Attorney General THOMAS L. RINALDI				
4	Supervising Deputy Attorney General State Bar No. 206911				
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013				
6	Telephone: (213) 269-6310 Facsimile: (916) 731-2126				
7	Attorneys for Complainant				
8	DEDOD				
9	BEFORE THE BOARD OF PHARMACY				
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA				
11					
12	In the Matter of the Statement of Issues	Case No. 6750			
13	Against:				
14	JOSHUA KONADU-DARKO	STATEMENT OF ISSUES			
15	Intern Pharmacist License Applicant				
16	Respondent.				
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19	PAR	<u>ries</u>			
20	1. Anne Sodergren (Complainant) bring	s this Statement of Issues solely in her official			
21	capacity as the Interim Executive Officer of the Board of Pharmacy (Board), Department of				
22	Consumer Affairs.				
23	2. On or about October 30, 2018, the Board received an application for an Intern				
24	Pharmacist License from Joshua Konadu-Darko (Respondent). On or about October 22, 2018,				
25	Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and				
26	representations in the application. The Board denied the application on May 24, 2019.				
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		STATEMENT OF ISSUES			

1	JURISDICTION		
2	3. This Statement of Issues is brought before the Board under the authority of the		
3	following laws. All section references are to the Business and Professions Code unless otherwise		
4	indicated.		
5	STATUTORY PROVISIONS		
6	4. Section 480 states, in pertinent part:		
7	(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:		
8	(1) Been convicted of a crime. A conviction within the meaning of this section		
9	means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a		
10 11	conviction may be taken 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 the		
12	provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.		
13			
14	(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.		
15 16	(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.		
17 18	(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been		
19 20	convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.		
21	(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant		
22	denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of		
23	the Penal Code shall provide proof of the dismissal.		
24 25	(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.		
26	5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license		
20	on the ground that the licensee has been convicted of a crime substantially related to the		
28	qualifications, functions, or duties of the business or profession for which the license was issued.		
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	STATEMENT OF ISSUES		

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Section 4301 states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

4 5 (1) 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 6 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 7 state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall 8 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 9 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 10 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 11 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 12 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 13 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 14 dismissing the accusation, information, or indictment. 15 16 (p) Actions or conduct that would have warranted denial of a license. **REGULATORY PROVISIONS** 17 7. California Code of Regulations, title 16, section 1770, states: 18 19 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 20 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 21 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 22 public health, safety, or welfare. FIRST CAUSE FOR DENIAL OF APPLICATION 23 (Conviction of a Substantially Related Crime) 24 8. Respondent's application is subject to denial under section 480, subdivision (a)(1), in 25 that Respondent was convicted of a substantially related crime. Specifically, on or about July 14, 26 2017, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of 27 violating Vehicle Code section 23109, subdivision (c) [exhibition of speed] in the criminal 28 3

proceeding entitled The People of the State of California v. Joshua Darko (Super. Ct. L.A. 1 2 County, 2017, No. 6MN00470.) The court sentenced Respondent to serve one day in jail and placed him on 24 months' probation, with terms and conditions - some of which he violated -3 resulting in bench warrants issued by the court. 4 9. The circumstances surrounding the conviction are that on or about December 30, 5 2015, Respondent was observed by officers slumped forward in the driver seat of his vehicle and 6 he appeared to be asleep. After officers awoke Respondent, he submitted to a series of field 7 sobriety tests which he was unable to complete as performed. Additional investigation by the 8 officers also revealed that Respondent was driving without a valid California driver's license and 9 10 that a driver's license issued to him by the State of Delaware was suspended. Respondent was subsequently placed under arrest for driving under the influence of an unknown alcoholic 11 intoxicant and deemed unable to safely operate a motor vehicle and transported to the station for 12 further processing during which he refused any chemical testing. 13 SECOND CAUSE FOR DENIAL OF APPLICATION 14 (Knowingly Made a False Statement of Fact) 15 10. Respondent's application is subject to denial under section 480, subdivision (d), in 16 that on or about October 22, 2018, Respondent knowingly made a false statement of fact required 17 to be revealed in his application when he failed to disclose his conviction. Complainant refers to, 18 19 and by this reference incorporates, the allegations set forth in paragraph 8, as though set forth fully. 20THIRD CAUSE FOR DENIAL OF APPLICATION 21 (Acts Warranting Denial of Licensure) 22 Respondent's application is subject to denial under sections 4301, subdivision (p) and 11. 23 24 480, subdivisions (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a licentiate of the business and profession, would be grounds for suspension or revocation of his 25 license in that Respondent was convicted of a crime substantially related to the qualifications, 26 functions, or duties of an intern pharmacist which to a substantial degree evidence his present or 27 potential unfitness to perform the functions authorized by his license in a manner consistent with 28

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1 2	-	n, safety, or welfare, in vio	plation of sections 4301, subdivision (1), and 490, in	
2	conjunction with			
~	conjunction with	conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to,		
3	and by this reference incorporates, the allegations set forth above in paragraph 8, as though set			
4	forth fully.			
5	<u>PRAYER</u>			
6	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,			
7	and that following the hearing, the Board of Pharmacy issue a decision:			
8	1. Denying the application of Joshua Konadu-Darko for a Intern Pharmacist License;			
9	and			
10	2. Tak	ing such other and further	action as deemed necessary and proper.	
11				
12	DATED:	tember 26, 2019	Anne Sodergren ANNE SODERGREN	
13			Interim Executive Officer Board of Pharmacy	
14			Department of Consumer Affairs State of California	
15			Complainant	
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