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

13 In the Matter of the Statement of Issues
Against:

14 **MICHAELA NOELLE CARREL**

15 **Pharmacy Technician Applicant**

16 Respondent.
17

Case No. 7340

STATEMENT OF ISSUES

18
19
20 **PARTIES**

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

24 2. On or about January 24, 2022, the Board received an application for a pharmacy
25 technician from Michaela Noelle Carrel (Respondent). On or about December 9, 2021, Michaela
26 Noelle Carrel certified under penalty of perjury to the truthfulness of all statements, answers, and
27 representations in the application. The Board denied the application on June 14, 2022.

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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 (Code) unless
4 otherwise indicated.

5 4. Section 4300 of the Code states, in pertinent part:

6 (c) The board may refuse a license to any applicant guilty of unprofessional
7 conduct. The board may, in its sole discretion, issue a probationary license to any
8 applicant for a license who is guilty of unprofessional conduct and who has met all
9 other requirements for licensure. The board may issue the license subject to any
10 terms or conditions not contrary to public policy, including, but not limited to, the
11 following:

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13 (5) Abstention from the use of alcohol or drugs.

14 (6) Random fluid testing for alcohol or drugs.

15 (7) Compliance with laws and regulations governing the practice of pharmacy.

16 **STATUTORY PROVISIONS**

17 5. Section 480 of the Code states, in pertinent part:

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

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

. . . .

(f) A board shall follow the following procedures in requesting or acting on an
applicant’s criminal history information:

. . . .

(3) If a board decides to deny an application for licensure based solely or in part
on the applicant’s conviction history, the board shall notify the applicant in writing of
all of the following:

1 (A) The denial or disqualification of licensure.

2 (B) Any existing procedure the board has for the applicant to challenge the
decision or to request reconsideration.

3 (C) That the applicant has the right to appeal the board's decision.

4 (D) The processes for the applicant to request a copy of the applicant's
5 complete conviction history and question the accuracy or completeness of the record
pursuant to Sections 11122 to 11127 of the Penal Code.

6 6. Section 4301 of the Code states, in pertinent part:

7 The board shall take action against any holder of a license who is guilty of
8 unprofessional conduct . . . Unprofessional conduct shall include, but is not limited to,
any of the following:

9

10 (h) The administering to oneself, of any controlled substance, or the use of an
11 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
dangerous or injurious to oneself, to a person holding a license under this chapter, or
12 to any other person or to the public, or to the extent that the use impairs the ability of
the person to conduct with safety to the public the practice authorized by the license.

13 (i) The conviction of a crime substantially related to the qualifications,
14 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
15 States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
16 evidence of unprofessional conduct. In all other cases, the record of a conviction
shall be conclusive evidence only of the fact that the conviction occurred. The board
17 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
18 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
19 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
20 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
21 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
22 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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24 **FACTUAL ALLEGATIONS**

25 7. On or about December 23, 2017, Officer M was conducting a driving under the
26 influence investigation on Leonard and Hartnell streets in Redding, California, and heard a loud
27 crash in the southeast parking lot at Leonard and Hartnell. Witnesses approached and informed
28 Officer M that a red Toyota had backed into a silver Nissan. Officer M observed damage to the

1 silver Nissan and observed a red Toyota driving out of the parking lot without leaving insurance
2 information. Officer M contacted Respondent, observed signs of intoxication, and then
3 administered a series of field sobriety tests that Respondent was unable to perform satisfactorily.
4 Respondent admitted she was driving the red Toyota, that she drank five twelve-ounce beers
5 before driving, and stated that she was driving to the store to buy more beer. Respondent said she
6 might have been in a collision, but was not sure, although she did hear people yelling at her about
7 the collision. Respondent agreed to take a preliminary alcohol screening test, the results of which
8 were .212 percent and .230 percent blood alcohol content (BAC), respectively. Respondent was
9 arrested for a violation of Vehicle Code section 23152, subdivision (a), driving under the
10 influence of alcohol. After her arrest, Respondent was administered a breath test that indicated
11 her BAC to be .26 percent and .27 percent, respectively.

12 8. On or about May 25, 2018, in the criminal matter entitled *People v. Michaela Noelle*
13 *Carrel*, Shasta County Superior Court, case number MC RD CRTR180000488, Respondent was
14 convicted by the court on her plea of nolo contendere to violating Vehicle Code section 23152,
15 subdivision (b) (driving with a BAC of .08% or higher), with an enhancement of Vehicle Code
16 section 23578 (driving with a BAC of .15% or higher), a misdemeanor, and Vehicle Code section
17 20002, subdivision (a) (hit and run, fail to notify owner), a misdemeanor. As a result of her
18 conviction, Respondent was sentenced to three years' probation, and ordered to serve twelve days
19 in jail, attend a nine month alcohol treatment program, and pay all fines and fees.

20 **FIRST CAUSE FOR DENIAL OF APPLICATION**

21 **(Conviction of a Crime)**

22 9. Respondent's application for a Pharmacy Technician License is subject to denial
23 pursuant to the Code, sections 480, subdivision (a)(1), 4300, subdivision (c) and 4301,
24 subdivision (d), in that she was convicted of a crime substantially related to the qualifications,
25 functions, and duties of a pharmacist intern, as more particularly set forth in paragraphs seven and
26 eight above, and incorporated herein by reference.

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SECOND CAUSE FOR DENIAL OF APPLICATION

(Dangerous Use of Drugs or Alcohol)

10. Respondent’s application for a Pharmacy Technician License is subject to denial pursuant to Code sections 4300, subdivision (c), and 4301, subdivision (h), in that she used alcohol to an extent or in a manner dangerous or injurious to herself, any other person, or the public, as more particularly set forth above in paragraph seven, and incorporated herein by reference.

PRAYER

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

- 1. Denying the application of Michaela Noelle Carrel for a pharmacy technician license;
- and
- 2. Taking such other and further action as deemed necessary and proper.

DATED: 9/6/2022

Signature on File _____

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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