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

12 In the Matter of the Statement of Issues  
Against:

13 **NSHARRA MILAE CLARK**

14 **Pharmacy Technician Applicant,**

15 Respondent.  
16

Case No. 7168

**STATEMENT OF ISSUES**

17  
18 **PARTIES**

19 1. Anne Sodergren (Complainant) brings this statement of issues solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer  
21 Affairs.

22 2. On or about May 19, 2020, the Board received an application for a pharmacy  
23 technician registration from Nsharra Milae Clark (Respondent). On or about May 13, 2020,  
24 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and  
25 representations in the application. The Board denied the application on June 8, 2021.

26 **JURISDICTION**

27 3. This statement of issues is brought before the board under the authority of the  
28 following laws. All section references are to the Business and Professions Code unless otherwise

1 indicated.

2 4. Section 4011 states:

3 “The board shall administer and enforce this chapter and the Uniform Controlled  
4 Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).”

5 **STATUTORY AND REGULATORY AUTHORITY**

6 5. Section 480 states in part:

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

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

18 6. Section 4300, subdivision (c), states:

19 “The board may refuse a license to any applicant guilty of unprofessional conduct. . . .”

20 7. Section 4301 states in part:

21 “Unprofessional conduct shall include, but is not limited to, any of the following:

22 . . .

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

28 . . .

1 “(k) The conviction of more than one misdemeanor or any felony involving the use,  
2 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
3 combination of those substances.

4 “(l) The conviction of a crime substantially related to the qualifications, functions, and  
5 duties of a licensee under this chapter. . . . [T]he record of conviction shall be conclusive  
6 evidence only of the fact that the conviction occurred. The board may inquire into the  
7 circumstances surrounding the commission of the crime, in order to fix the degree of discipline  
8 or, in the case of a conviction not involving controlled substances or dangerous drugs, to  
9 determine if the conviction is of an offense substantially related to the qualifications, functions,  
10 and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a  
11 plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The  
12 board may take action when the time for appeal has elapsed, or the judgment of conviction has  
13 been affirmed on appeal or when an order granting probation is made suspending the imposition  
14 of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing  
15 the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
16 the verdict of guilty, or dismissing the accusation, information, or indictment.”

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

18 “For the purpose of denial, suspension, or revocation of a personal or facility license  
19 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
20 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
21 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
22 licensee or registrant to perform the functions authorized by his license or registration in a manner  
23 consistent with the public health, safety, or welfare.”

## 24 **CAUSES FOR DENIAL OF APPLICATION**

### 25 **FIRST CAUSE FOR DENIAL**

#### 26 **(August 19, 2015, and May 19, 2017, DUI Convictions)**

27 9. Respondent’s application is subject to denial under section 480, subdivision (a)(1)  
28 for being convicted of crimes substantially related to the qualifications, functions, and duties of a

1 licensee. On August 19, 2015, in *People v. Nsharra Milae Clark*, Santa Cruz County Superior  
2 Court Case No. M85483, Respondent pled no contest to driving with a blood alcohol level of  
3 0.08% or more (Veh. Code, § 23152, subd. (b)), a misdemeanor. Respondent's blood alcohol  
4 content was 0.15 percent. The court imposed a conditional sentence and instructed Respondent to  
5 complete a three-month drinking driving program.

6 10. And on May 19, 2017, in *People v. Nsharra Milae Clark*, Santa Cruz County  
7 Superior Court Case No. 17CR01712, Respondent was convicted after trial of driving under the  
8 influence of alcohol (Veh. Code, § 23152, subd. (a)), a misdemeanor, and admitted a prior  
9 drinking driving conviction under Vehicle Code sections 23540 and 23546. Respondent's blood  
10 alcohol content was 0.23 percent. Imposition of sentence was suspended and Respondent was  
11 placed on three years' probation. Terms and conditions of probation included 60 days'  
12 incarceration and enrollment in an 18-month drinking driving program.

### 13 **SECOND CAUSE FOR DENIAL**

#### 14 **(Unprofessional Conduct: Use of Alcoholic Beverages as to be Dangerous or Injurious)**

15 11. Respondent's application is subject to denial under sections 4300, subdivision (c),  
16 and 4301, subdivision (h), for the unprofessional conduct of using alcoholic beverages to the  
17 extent or in a manner as to be dangerous or injurious to himself, to any other person or to the  
18 public, or to the extent that the use impairs his ability to conduct with safety to the public the  
19 practice authorized by the license. The facts are set forth in paragraphs 9-10 above.

### 20 **THIRD CAUSE FOR DENIAL**

#### 21 **(Unprofessional Conduct: Conviction of Multiple Misdemeanors Involving Alcoholic 22 Beverages; Convictions Substantially Related)**

23 12. Respondents application is subject to denial under sections 4300, subdivision (c),  
24 and 4301, subdivisions (k) and (l), for the unprofessional conduct of being convicted of more than  
25 one misdemeanor involving the use or consumption of any dangerous drug or alcoholic beverage,  
26 and for being convicted of crimes substantially related to the qualifications, functions, and duties  
27 of a licensee. The facts are set forth in paragraphs 9-10 above.

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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this statement of issues and that following the hearing the Board of Pharmacy issues a decision:

1. Denying the application of Respondent Nsharra Milae Clark; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 8/7/2021

Signature on File

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

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