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

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

Case No. 7467

14 **RA'SHI MIGNON JOHNSON**

**STATEMENT OF ISSUES**

15 **Pharmacy Technician License Applicant**

16 Respondent.  
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18  
19 **PARTIES**

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

22 2. On or about August 9, 2022, the Board of Pharmacy (Board), Department of  
23 Consumer Affairs, received an application for a Pharmacy Technician License from Ra'Shi  
24 Mignon Johnson (Respondent). On or about August 8, 2022, Respondent certified under penalty  
25 of perjury to the truthfulness of all statements, answers, and representations in the application.

26 The Board denied the application on January 26, 2023.

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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, subdivision (c), of the Code provides, in pertinent part, that the Board  
6 may refuse a license to any applicant guilty of unprofessional conduct. The Board may, in its sole  
7 discretion, issue a probationary license to any applicant for a license who is guilty of  
8 unprofessional conduct and who has met all other requirements for licensure.

9 **STATUTORY PROVISIONS**

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

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

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

24 6. Section 493 of the Code states:

25 (a) Notwithstanding any other law, in a proceeding conducted by a board within the  
26 department pursuant to law to deny an application for a license or to suspend or revoke a  
27 license or otherwise take disciplinary action against a person who holds a license, upon the  
28 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.

(b)

(1) Criteria for determining whether a crime is substantially related to the  
qualifications, functions, or duties of the business or profession the board regulates shall  
include all of the following:

(A) The nature and gravity of the offense.

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(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

(c) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.” . . .

7. Section 4301 of the Code 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 includes, but is not limited to, any of the following:

. . .

(h) The administering to oneself, of any controlled substance, or the use of any 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 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.

. . .

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

(l) 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 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 state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall 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 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 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 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 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 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 dismissing the accusation, information, or indictment. . . .

1 **REGULATORY PROVISIONS**

2 8. California Code of Regulations (CCR), title 16, section 1769, provides, in  
3 pertinent part:

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5 (b) Denial of a license.

6 (1) When considering the denial of a facility or personal license under Section  
7 480 of the Business and Professions Code on the grounds that the applicant has been  
8 convicted of a crime, the board will consider whether the applicant made a showing  
9 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:

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

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

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

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

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

18 (2) If the applicant has not completed the criminal sentence at issue without a  
19 violation of parole or probation, or the board determines that the applicant did not  
20 make the showing of rehabilitation based on the criteria in paragraph (1) or the denial  
is based on professional misconduct, the board will apply the following criteria in  
evaluating an applicant's rehabilitation:

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

23 (B) Evidence of any act(s), professional misconduct, or crime(s) committed  
24 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.

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

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

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

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

4 ...

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

6 (a) For the purpose of denial, suspension, or revocation of a personal or facility  
7 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the  
8 Business and Professions Code, a crime, professional misconduct, or act shall be  
9 considered substantially related to the qualifications, functions or duties of the  
10 practice, profession, or occupation that may be performed under the license type  
11 sought or held if to a substantial degree it evidences present or potential unfitness of  
12 an applicant or licensee to perform the functions authorized by the license in a  
13 manner consistent with the public health, safety, or welfare.

14 (b) In making the substantial relationship determination required under  
15 subdivision (a) for a crime, the board will consider the following criteria:

16 (1) The nature and gravity of the offense;

17 (2) The number of years elapsed since the date of the offense; and

18 (3) The nature and duties of the practice, profession, or occupation that may be  
19 performed under the license type sought or held.

20 (c) For purposes of subdivision (a), substantially related crimes, professional  
21 misconduct, or acts shall include, but are not limited to, those which:

22 (1) Violate or attempt to violate, directly or indirectly, or to aid, abet or  
23 conspire to violate, any provision of law of this state, or any other jurisdiction,  
24 governing the practice of pharmacy.

25 (2) Violate or attempt to violate, directly or indirectly, or to aid, abet or  
26 conspire to violate, any provision of Chapter 13 (commencing with Section 801) of  
27 Title 21 of the United States Code regulating controlled substances or any law of this  
28 state, or any other jurisdiction, relating to controlled substances or dangerous drugs.

(3) Violate or attempt to violate, directly or indirectly, or to aid, abet or  
conspire to violate, any provision of law of this state, or any other jurisdiction,  
relating to government provided or government supported healthcare.

(4) Involve dishonesty, fraud, deceit, or corruption related to money, items,  
documents, or personal information.

(5) Involve a conviction for driving under the influence of drugs or alcohol.

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Criminal Convictions)**

3 10. Respondent's application is subject to denial under Code sections 480, subdivision  
4 (a)(1), 4300, subdivision (c), and 4301, subdivision (I), in conjunction with California Code of  
5 Regulations, title 16, section 1770, in that Respondent has been convicted of crimes which are  
6 substantially related to the qualifications, functions and duties of a pharmacy technician.

7 11. On or about August 29, 2016, in a criminal proceeding entitled *The People of the*  
8 *State of California v. Rashi Johnson*, in San Joaquin County Superior Court, Case Number CR-  
9 2016-0011691, Respondent was convicted by plea of no contest of violating Vehicle Code section  
10 23152(b) (driving with a blood alcohol content of .08% or higher), a misdemeanor, with an  
11 enhancement under Vehicle Code sections 23578 (driving with a blood alcohol content of 0.15%  
12 or higher). Respondent was sentenced to seven days of Sheriff Work Project, placed on three  
13 years of probation with terms and conditions, ordered to complete an 3-month multiple offender  
14 DUI program and to pay fines. The circumstances are as follows:

15 a. On or about August 6, 2016, at approximately 5:12 a.m., officers with the  
16 Stockton Police Department (SPD) responded to a report of a vehicle stopped in traffic at an  
17 intersection with the driver hunched over the steering wheel. Upon arrival the officers noticed the  
18 driver, later identified as Respondent, was asleep with his foot on the brake pedal and the vehicle  
19 in drive. The officers woke Respondent by knocking on the windows of his vehicle. When  
20 Respondent exited his vehicle, the officers immediately smelled a strong odor of an alcoholic  
21 beverage emitting from Respondent's person, and noticed that he had slurred speech, and red,  
22 watery eyes. Respondent stated that he had no idea he was sleeping in traffic. Respondent told the  
23 officers he was on his way home after leaving work, and he did not remember what alcoholic  
24 beverage he had consumed. Respondent submitted to a series of field sobriety tests, which he was  
25 unable to perform as explained and demonstrated by the officer. Respondent submitted to a breath  
26 test and was determined to have a blood alcohol level of 0.15/.15%.

27 12. On or about April 26, 2021, in a criminal proceeding entitled *The People of the State*  
28 *of California v. Rashi Johnson*, in San Joaquin County Superior Court, Case Number CR-2021-

1 0004037, Respondent was convicted by plea of no contest of violating Vehicle Code section  
2 23152(b) (driving with a blood alcohol content of .08% or higher), a misdemeanor, with  
3 enhancements under Vehicle Code sections 23578 (driving with a blood alcohol content of .15 %  
4 or higher) and 23540 (prior DUI conviction within 10 years). Respondent was also convicted by  
5 plea of no contest of violating Vehicle Code section 12500(a) (driving without a license), a  
6 misdemeanor. Respondent was sentenced to 19 days in jail, placed on five years of probation with  
7 terms and conditions, and ordered to complete an 18-month multiple offender DUI program and  
8 to pay fines. The circumstances are as follows:

9 a. On or about April 11, 2021, at approximately 11:35 p.m., SPD officers  
10 responded to a report of a traffic collision. Upon arriving at the scene, the officers found one of  
11 the drivers, later identified as Respondent, laying in a field at the corner of the intersection,  
12 screaming and crying "I'm sorry." Respondent told one of the officers that he consumed "a beer"  
13 approximately four hours prior. The officer noticed the odor of alcohol emitting from  
14 Respondent's person, as well as slurred speech, and red, watery eyes. The officer ran a DMV  
15 check and discovered that Respondent's driver's license was been suspended for a prior DUI.  
16 Respondent had admitted to a fireman that he was driving the vehicle, but when speaking to the  
17 SPD officers Respondent denied that he was driving the vehicle. Respondent submitted to a  
18 series of field sobriety tests, which he was unable to perform as explained and demonstrated by  
19 the officer. Respondent submitted to a breath test and was determined to have a blood alcohol  
20 level of 0.23/.24%. Respondent then gave the officers a statement stating he had consumed  
21 approximately 3 beers, and admitted to driving his vehicle at the time the collision took place.

## 22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

### 23 **(Dangerous Use of Alcohol)**

24 13. Respondent's application is subject to denial under Code sections 4300, subdivision  
25 (c), and 4301, subdivision (h), in that, as set forth in paragraphs 11 and 12 above, on or about  
26 August 6, 2016, and April 11, 2021, Respondent used alcoholic beverages to an extent, or in a  
27 manner, as to be dangerous or injurious to himself, others, and the public.

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**THIRD CAUSE FOR DENIAL OF APPLICATION**

**(Unprofessional Conduct: Conviction of Multiple Misdemeanors Involving Alcoholic Beverages)**

14. Respondent's application is subject to denial under Code sections 4300, subdivision (c), and 4301, subdivision (k), in that, as set forth in paragraphs 11 and 12 above, Respondent was convicted of more than one misdemeanor involving the use, consumption or self-administration of alcohol.

**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 Ra'Shi Mignon Johnson for a Pharmacy Technician License;
2. Taking such other and further action as deemed necessary and proper.

DATED: 4/15/2023

Digitally signed by Sodergren,  
 Anne@DCA  
 Date: 2023.04.15 06:21:58  
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ANNE SODERGREN  
 Executive Officer  
 Board of Pharmacy  
 Department of Consumer Affairs  
 State of California  
*Complainant*

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