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

10 In the Matter of the Statement of Issues
11 Against:

Case No. 3342

12 **AGYEMAN, KWAKU YEBOAH**
24920 Mound Street
13 Loma Linda, CA 92350
14 **Intern Pharmacist Applicant**

STATEMENT OF ISSUES

15 Respondent.

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17 Complainant alleges:

18 PARTIES

19 1. Virginia Herold (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 September 30, 2008, the Board received an application for an Intern
23 Pharmacist Applicant from Kwaku Yeboah Agyeman (Respondent). On or about September 19,
24 2008, Respondent certified under penalty of perjury to the truthfulness of all statements, answers,
25 and representations in the application. The Board denied the application on January 14, 2009.

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JURISDICTION

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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 4. Section 475 of the Code states in pertinent part:

6 “(a) Notwithstanding any other provisions of this code, the provisions of this division shall
7 govern the denial of licenses on the grounds of:

8

9 “(2) Conviction of a crime.

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11 “(4) Commission of any act which, if done by a licentiate of the . . . profession in question,
12 would be grounds for suspension or revocation of license.”

13 5. Section 480 states, in pertinent part:

14 “(a) A board may deny a license regulated by this code on the grounds that the applicant
15 has one of the following:

16 “(1) Been convicted of a crime. A conviction within the meaning of this section means a
17 plea . . . of guilty or a conviction following a plea of nolo contendere. . . .

18

19 “(3) Done any act which if done by a licentiate of the . . . profession in question, would be
20 grounds for suspension or revocation of license.

21 “The board may deny a license pursuant to this subdivision only if the crime or act is
22 substantially related to the qualifications, functions or duties of the . . . profession for which
23 application is made.

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25 6. Subdivision (c) of section 4300 of the Code states:

26 “The board may refuse a license to any applicant guilty of unprofessional conduct. The
27 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
28 guilty of unprofessional conduct and who has met all other requirements for licensure. The board

1 may issue the license subject to any terms or conditions not contrary to public policy, including,
2 but not limited to, the following:

3 A(1) Medical or psychiatric evaluation.

4 A(2) Continuing medical or psychiatric treatment.

5 A(3) Restriction of type or circumstances of practice.

6 A(4) Continuing participation in a board-approved rehabilitation program.

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

8 A(6) Random fluid testing for alcohol or drugs.

9 A(7) Compliance with laws and regulations governing the practice of pharmacy.”

10 7. California Code of Regulations, title 16, section 1770, states in pertinent part:

11 “For the purpose of denial . . . of a personal . . . license pursuant to Division 1.5
12 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
13 considered substantially related to the qualifications, functions or duties of a licensee or registrant
14 if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to
15 perform the functions authorized by his license or registration in a manner consistent with the
16 public health, safety, or welfare.”

17 FIRST CAUSE FOR DENIAL OF APPLICATION

18 (Conviction of Substantially Related Crime)

19 8. Respondent’s application is subject to denial under section 475, subdivision (a)(2)
20 and section 480, subdivision (a)(1), in that Respondent committed criminal acts and was
21 convicted of a criminal offense substantially related to the qualifications, functions or duties of a
22 pharmacist. The circumstances are as follows:

23 a. On or about February 1, 2004, while a college student at Virginia Commonwealth
24 University, Respondent and associates planned to engage in selling marijuana on the university
25 campus. Respondent was arrested for two criminal offenses, possession of marijuana with the
26 intent to distribute, and possession of marijuana in a school zone.

27 b. On or about May 19, 2004, in Richmond City Circuit Court of Richmond, Virginia,
28 Case No. 761GC0400084700, Respondent pleaded guilty to possession of marijuana.

