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

11 In the Matter of the Statement of Issues Against: Case No. 6229  
12 **AMR GAMAL IBRAHIM** **STATEMENT OF ISSUES**  
13 **Intern Pharmacist Registration Applicant**  
14 Respondent.  
15

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her  
19 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of  
20 Consumer Affairs.

21 2. On March 29, 2017, the Board received an application for an Intern Pharmacist  
22 Registration from Amr Gamal Ibrahim (Respondent). On March 24, 2017, Amr Gamal Ibrahim  
23 certified under penalty of perjury to the truthfulness of all statements, answers, and  
24 representations in the application. The Board denied the application on July 20, 2017.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board, under the authority of the  
27 following laws. All section references are to the Business and Professions Code (Code) unless  
28 otherwise indicated.

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4. Code section 4300, subdivision (c) states, in pertinent part:  
The board may refuse a license to any applicant guilty of unprofessional conduct.

**STATUTORY PROVISIONS**

5. Code section 475 states, in pertinent part:  
(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

...

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

....

6. Code section 480 states, in pertinent part:  
(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

...

(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.

(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.

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7. Code section 482 states:  
Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:  
(a) Considering the denial of a license by the board under section 480; or  
(b) Considering suspension or revocation of a license under section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Code section 4022 states:  
"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of

1 similar import, the blank to be filled in with the designation of the practitioner  
2 licensed to use or order use of the device.

3 (c) Any other drug or device that by federal or state law can be  
4 lawfully dispensed only on prescription or furnished pursuant to Section 4006.

5 9. Code section 4060 states:

6 A person shall not possess any controlled substance, except that furnished  
7 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
8 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
9 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
10 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant  
11 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
12 pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not  
13 apply to the possession of any controlled substance by a manufacturer,  
14 wholesaler, third-party logistics provider, pharmacy, pharmacist, physician,  
15 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-  
16 midwife, nurse practitioner, or physician assistant, if in stock in containers  
17 correctly labeled with the name and address of the supplier or producer.

18 This section does not authorize a certified nurse-midwife, a nurse  
19 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own  
20 stock of dangerous drugs and devices.

21 10. Code section 4301 states, in pertinent part:

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

25 .....

26 11. Health & Safety Code section 11054 states, in pertinent part:

27 (a) The controlled substances listed in this section are included in  
28 Schedule I.

.....

(d) Hallucinogenic substances. Unless specifically excepted or unless  
listed in another schedule, any material, compound, mixture, or preparation,  
which contains any quantity of the following hallucinogenic substances, or which  
contains any of its salts, isomers, and salts of isomers whenever the existence of  
those salts, isomers, and salts of isomers is possible within the specific chemical  
designation (for purposes of this subdivision only, the term "isomer" includes the  
optical, position, and geometric isomers):

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(13) Marijuana.

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12. Health & Safety Code section 11357 states, in pertinent part:

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(b) Except as authorized by law, every person who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).

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**REGULATORY PROVISIONS**

13. California Code of Regulations, title 16, section 1768 states:

(a) Where the board has denied an application for a license, the earliest date on which the applicant may reapply for a license is one year after the effective date of the denial.

(b) All competent evidence of rehabilitation presented will be considered upon a reapplication. The board shall use the criteria listed in section 1769 when considering evidence of rehabilitation.

14. California Code of Regulations, title 16, section 1769 states, in pertinent part:

(a) When considering the denial of a facility or personal license under section 480 of the Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for licensing or registration, will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

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

(5) Evidence, if any, of rehabilitation submitted by the applicant.

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

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 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 it evidences present or potential unfitness of a licensee or

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1 registrant to perform the functions authorized by his license or registration in a  
2 manner consistent with the public health, safety, or welfare.

3 **DRUG**

4 16. Cannabinoids (Marijuana) are Schedule I controlled substances as designated by  
5 Health and Safety Code section 11054, subdivision (d)(13) and categorized as dangerous drugs  
6 under section 4022.

7 **FIRST CAUSE FOR DENIAL OF APPLICATION**

8 **(Act If Done by Licentiate - Unprofessional Conduct)**

9 17. Respondent's application for an Intern Pharmacist Registration is subject to denial  
10 under Code sections 475, subdivision (a)(4), and 480, subdivision (a)(3)(A) in that on September  
11 28, 2016, he engaged in unprofessional conduct, which would be a ground for discipline for a  
12 registered intern pharmacist under Code section 4301. The circumstances are as follows:

13 a. On September 28, 2016, Respondent exceeded the speed limit while  
14 driving on Wilson Avenue in Brooklyn, New York. Respondent then failed to stop for a stop  
15 sign, made a U-turn at an excessive speed, crossed double yellow lines near the intersection of  
16 Decatur Street, and continued driving at a high rate of speed in the opposite direction close to the  
17 side walk by a bus stop, causing pedestrians to jump out of the way. When Respondent parked  
18 his vehicle along Wilson Avenue, undercover police officers from the New York City Police  
19 Department (NYPD) approached Respondent's vehicle. Respondent refused to cooperate with  
20 the police officers and resisted arrest. Respondent was eventually subdued, arrested, and  
21 transported to NYPD's 83<sup>rd</sup> precinct for processing. During an inventory search of Respondent's  
22 vehicle at the precinct, a police officer found in plain view a plastic container containing hashish,  
23 which field tested positive for marijuana.

24 b. As a result of Respondent's arrest, on September 30, 2016, in Kings  
25 County, New York, in a criminal proceeding entitled *The People of the State of New York v. Amr*  
26 *Ibrahim*, in Criminal Court of the City of New York, Arrest ID Number K16670040, Respondent  
27 was charged with violation of NY CLS Penal sections 195.05, obstructing governmental  
28 administration in the second degree, and 205.30, resisting arrest, both class A misdemeanors;

1 221.05<sup>1</sup>, unlawful possession of marijuana, a violation; and 221.10, subdivision (1)<sup>2</sup>, criminal  
2 possession of marijuana in the fifth degree, a class B misdemeanor. Respondent was also charged  
3 with violation of Vehicle and Traffic Laws (VTL) sections 1110, failure to comply with a traffic  
4 control sign; 1172, subdivision (A), failure to obey stop signs or yield signs; and 1180,  
5 subdivision (A), excessive speed; and 1212, reckless driving.

6 c. On March 1, 2017, in a criminal proceeding entitled *The People of the*  
7 *State of New York v. Amr Ibrahim*, in Criminal Court of the City of New York, Docket Number  
8 2016KN057952, Respondent was convicted of violating NY CLS Penal section 240.20,  
9 disorderly conduct, a violation. As a result of Respondent's conviction, Respondent was  
10 sentenced to a one-year conditional discharge, to expire on February 28, 2018, subject to terms  
11 and conditions. Respondent was ordered to perform one day of community service and pay a  
12 mandatory surcharge of \$120.00.

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17 <sup>1</sup> A person is guilty of unlawful possession of marihuana when he knowingly and unlawfully  
18 possesses marihuana.

19 Unlawful possession of marihuana is a violation punishable only by a fine of not more than  
20 one hundred dollars. However, where the defendant has previously been convicted of an offense  
21 defined in this article or article 220 of this chapter, committed within the three years immediately  
22 preceding such violation, it shall be punishable (a) only by a fine of not more than two hundred  
23 dollars, if the defendant was previously convicted of one such offense committed during such  
24 period, and (b) by a fine of not more than two hundred fifty dollars or a term of imprisonment not  
25 in excess of fifteen days or both, if the defendant was previously convicted of two such offenses  
26 committed during such period.

27 <sup>2</sup> A person is guilty of criminal possession of marihuana in the fifth degree when he  
28 knowingly and unlawfully possesses:

1. marihuana in a public place, as defined in section 240.00 of this chapter, and such  
marihuana is burning or open to public view; or
2. one or more preparations, compounds, mixtures or substances containing marihuana and  
the preparations, compounds, mixtures or substances are of an aggregate weight of more  
than twenty-five grams.

Criminal possession of marihuana in the fifth degree is a class B misdemeanor.

