

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

In the Matter of the Statement of Issues Against:

Case No. 3342

KWAKU YEBOAH AGYEMAN

24920 Mound Street

Loma Linda, CA 92350

Respondent.

DECISION AND ORDER

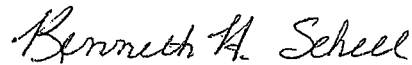
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on December 30, 2009.

It is so ORDERED on December 30, 2009.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RENE JUDKIEWICZ
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Attorneys for Complainant
7

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
13 Against:

14 **KWAKU YEBOAH AGYEMAN,**

15 **Intern Pharmacist Applicant,**

16 Respondent.

Case No. 3342

OAH No. L-2009090823

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
21 (Board). She brought this action solely in her official capacity and is represented in this matter by
22 Edmund G. Brown Jr., Attorney General of the State of California, by Rene Judkiewicz, Deputy
23 Attorney General.

24 2. Respondent Kwaku Yeboah Agyeman (Respondent) is represented in this proceeding
25 by attorney Fredrick M. Ray, whose address is Fredrick M. Ray, A Professional Corporation, 770
26 The City Drive, Suite 8100, Orange, CA 92868-6927 (telephone (714) 748-8488).
27
28

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent Kwaku Yeboah Agyeman that an Intern Pharmacist Registration will be issued and immediately revoked. Revocation is stayed, and Respondent is put on probation for five (5) years.

1. Enrollment in Pharmacy School

Within sixty (60) days of the effective date of this decision, Respondent shall enroll/re-enroll in an approved pharmacy school. Prior to enrollment/re-enrollment, Respondent shall notify the pharmacy school of the decision in Case Number 3342 and the terms, conditions and restrictions imposed on Respondent by the decision. The Board or its designee may, in its sole discretion, extend this deadline, upon a written request by Respondent. Any failure by Respondent to notify the school of this decision and/or enroll/re-enroll within sixty (60) days, or by another deadline established by the Board, shall be considered a violation of probation. In that case, the stay shall automatically terminate and the Registration shall be immediately revoked without further notice or opportunity to be heard.

2. Suspension

If by the effective date of this decision, Respondent has not enrolled/re-enrolled in an approved school of pharmacy, his Intern Pharmacist Registration shall be suspended until such time as Respondent has enrolled/re-enrolled in such program and has been notified by the Board in writing that the suspension has been lifted.

During suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

1 During suspension, Respondent shall not engage in any activity that requires the
2 professional judgment of a pharmacist or intern. Respondent shall not direct or control any aspect
3 of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or
4 an exemptee for any entity licensed by the Board. Subject to the above restrictions, Respondent
5 may continue to own or hold an interest in any pharmacy in which he holds an interest at the time
6 this decision becomes effective unless otherwise specified in this order.

7 **3. Comply With School Requirements**

8 Respondent shall comply with all requirements of the approved pharmacy school program
9 in which he enrolls/re-enrolls, including but not limited to any conditions on his enrollment/re-
10 enrollment or any additional requirements imposed as a result of Board action. At all times
11 during the period of probation until completion of such program, Respondent shall make
12 satisfactory progress toward completion of the program. Any failure by Respondent to comply
13 with any school requirement(s) or condition(s), or to make satisfactory progress toward
14 completion/graduation, shall be considered a violation of probation.

15 Respondent's Intern Pharmacist Registration shall be at all times contingent upon his
16 enrollment and satisfactory progress in an approved pharmacy school program. If at any time
17 prior to completion/graduation, he ceases to be enrolled or is terminated from enrollment, or if the
18 Board is informed by the school(s) that he has ceased to make satisfactory progress toward
19 completion/graduation, the stay shall automatically terminate and the Registration shall be
20 immediately revoked without further notice or opportunity to be heard.

21 **4. Obey All Laws**

22 Respondent shall obey all state and federal laws and regulations substantially related to or
23 governing the practice of pharmacy.

24 Respondent shall report any of the following occurrences to the board, in writing, within
25 seventy-two (72) hours of such occurrence:

- 26 • an arrest or issuance of a criminal complaint for violation of any provision of the
27 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
28 substances laws

- 1 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
- 2 criminal complaint, information or indictment
- 3 • a conviction of any crime
- 4 • discipline, citation, or other administrative action filed by any state or federal agency
- 5 which involves Respondent's Intern Pharmacist Registration or which is related to the
- 6 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
- 7 or charging for any drug, device or controlled substance.

8 **5. Report to the Board**

9 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
10 designee. The report shall be made either in person or in writing, as directed. Among other
11 requirements, Respondent shall state in each report, under penalty of perjury, whether there has
12 been compliance with all the terms and conditions of probation. Failure to submit timely reports
13 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
14 in submission of reports as directed may be added to the total period of probation, i.e., probation
15 is tolled for such period. Moreover, if the final probation report is not made as directed,
16 probation shall be extended automatically until such time as the final report is made and accepted
17 by the Board.

18 **6. Interviews with the Board**

19 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
20 with the Board staff upon request at various intervals at a location to be determined by Board
21 staff. Failure to appear for any scheduled interview without prior notification to Board staff shall
22 be considered a violation of probation.

23 **7. Cooperate with Board Staff**

24 Respondent shall cooperate with the Board's inspection program and in the Board's
25 monitoring and investigation of Respondent's compliance with the terms and conditions of his
26 probation. Failure to cooperate or comply shall be considered a violation of probation.

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28 ///

1 **8. Notice to Employers**

2 During the period of probation, Respondent shall notify all present and prospective
3 employers of the decision in Case Number 3342, and the terms, conditions and restrictions
4 imposed on Respondent by the Decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
8 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
9 individual(s) has/have read the decision in Case Number 3342, and terms and conditions imposed
10 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
11 supervisor(s) submit timely acknowledgment(s) to the Board.

12 If Respondent works for or is employed by or through a pharmacy employment service,
13 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every pharmacy
14 of the terms and conditions of the decision in Case Number 3342 in advance of the Respondent
15 commencing work at each pharmacy. Furthermore, within thirty (30) days of the effective date of
16 this decision, and within fifteen (15) days of Respondent undertaking any new employment by or
17 through a pharmacy employment service, Respondent shall cause his direct supervisor with the
18 pharmacy employment service to report to the Board in writing acknowledging that he or she has
19 read the decision in Case Number 3342 and the terms and conditions imposed thereby. It shall be
20 Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
21 acknowledgment(s) to the Board.

22 Failure to timely notify present or prospective employer(s) or supervisor(s) or failure to
23 cause any such employer(s) that/those employer(s) to submit timely acknowledgments to the
24 Board shall be considered a violation of probation.

25 "Employment" within the meaning of this provision shall include any full-time, part-time,
26 temporary, relief or pharmacy management service as a pharmacist or intern pharmacist, or in any
27 position for which a pharmacist license or intern pharmacist registration is a requirement or
28 criterion for employment, whether the Respondent is an employee or independent contractor.

1 **9. Probation Monitoring Costs**

2 Respondent shall pay any costs associated with probation monitoring as determined by the
3 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
4 set by the Board or its designee. Failure to pay such costs by the deadline(s) as directed shall be
5 considered a violation of probation.

6 **10. Random Drug Screening**

7 Respondent, at his own expense, shall participate in random testing, including but not
8 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
9 screening program as directed by the Board or its designee. Respondent may be required to
10 participate in testing for the entire probation period and the frequency of testing will be
11 determined by the Board or its designee.

12 At all times, Respondent shall fully cooperate with the Board or its designee, and shall,
13 when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics,
14 dangerous drugs or other controlled substances as the Board or its designee may direct. Failure to
15 timely submit to testing as directed shall be considered a violation of probation. Upon request of
16 the Board or its designee, Respondent shall provide documentation from a licensed practitioner
17 that the prescription for a detected drug was legitimately issued and is a necessary part of the
18 treatment of the Respondent.

19 Failure to timely provide such documentation shall be considered a violation of probation.
20 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed
21 practitioner as part of a documented medical treatment shall result in the automatic suspension of
22 practice of pharmacy by Respondent and shall be considered a violation of probation.
23 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

24 During suspension, Respondent shall not enter any pharmacy area or any portion of the
25 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
26 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
27 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
28 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient

1 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
2 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
3 and controlled substances.

4 During suspension, Respondent shall not engage in any activity that requires the
5 professional judgment of a pharmacist or intern. Respondent shall not direct or control any aspect
6 of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or
7 a designated representative for any entity licensed by the Board. Subject to the above restrictions,
8 Respondent may continue to own or hold an interest in any licensed pharmacy in which he holds
9 an interest at the time this decision becomes effective.

10 **11. Abstain from Drugs and Alcohol Use**

11 Respondent shall completely abstain from the possession or use of alcohol, controlled
12 substances, dangerous drugs and their associated paraphernalia except when the drugs are
13 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
14 request of the Board, Respondent shall provide documentation from the licensed practitioner that
15 the prescription was legitimately issued and is a necessary part of the treatment of the
16 Respondent. Failure to timely provide such documentation shall be considered a violation of
17 probation.

18 Respondent shall ensure that he is not in the same physical location as individuals who are
19 using illicit substances even if Respondent is not personally ingesting the drugs. Any possession
20 or use of alcohol, controlled substances, or their associated paraphernalia not supported by the
21 documentation timely provided, and/or any physical proximity to persons using illicit substances,
22 shall be considered a violation of probation.

23 **12. Status of License**

24 Respondent shall, at all times while on probation, maintain an active, current license with
25 the Board, including any period during which suspension or probation is tolled. Failure to
26 maintain an active, current license shall be considered a violation of probation.

27 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
28 during the period of probation, including any extensions thereof due to tolling or otherwise, upon

1 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
2 probation not previously satisfied.

3 **13. License Surrender While on Probation/Suspension**

4 Following the effective date of this decision, should Respondent cease practice due to
5 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
6 Respondent may tender his Intern Pharmacist Registration and/or license to the Board for
7 surrender. The Board shall have the discretion whether to grant the request for surrender or take
8 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of
9 the Intern Pharmacist Registration and/or license, Respondent will no longer be subject to the
10 terms and conditions of probation.

11 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall
12 registration and/or license to the Board within ten (10) days of notification by the Board that the
13 surrender is accepted.

14 The surrender of Respondent's registration and/or license and acceptance of a surrendered
15 registration and/or license by the Board shall constitute the imposition of discipline against
16 Respondent. This will then become a part of Respondent's license history with the Board.

17 Following the acceptance of a surrendered registration and/or license, Respondent
18 understands and agrees that if he ever files an application for registration and/or licensure or a
19 petition for reinstatement in the State of California, the Board shall treat it as an application for
20 registration and/or licensure.

21 Following the acceptance of a surrendered registration and/or license, Respondent may not
22 apply for any license, permit, or registration from the Board for three (3) years from the effective
23 date of the surrender. Respondent stipulates that should he apply for any license from the Board
24 on or after the effective date of the surrender, all allegations set forth in Statement of Issues No.
25 3342 shall be deemed to be true, correct and admitted by Respondent when the Board decides
26 whether to grant or deny the application. Respondent shall satisfy all requirements applicable to
27 that registration and/or license as of the date the application is submitted to the Board, including
28

1 but not limited to taking and passing any required examination(s) prior to the issuance of the new
2 registration and/or license. Respondent is required to report the surrender as disciplinary action.

3 Respondent further stipulates that should he ever apply for any registration and/or license
4 from the Board on or after the effective date of such surrender, any remaining investigation and
5 prosecution costs shall be paid to the Board prior to issuance of the new registration and/or
6 license. Respondent may not reapply for any license from the Board for three (3) years from the
7 effective date of the surrender. Respondent shall meet all requirements applicable to the
8 registration and/or license sought as of the date the application for that registration and/or license
9 is submitted to the Board, including any outstanding costs.

10 **14. Notification of Employment/Mailing Address Change**

11
12 Respondent shall notify the board in writing within ten (10) days of any change of
13 employment. Said notification shall include the reasons for leaving, the address of the new
14 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
15 shall further notify the board in writing within ten (10) days of a change in name, residence
16 address, mailing address, or phone number.

17 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
18 phone number(s) shall be considered a violation of probation.

19 **15. Tolling of Probation**

20 At all times while on probation and prior to his completion of/graduation from an approved
21 pharmacy school program, Respondent shall be employed as a pharmacist intern in California for
22 the number of hours required by the program of enrollment. Any month during which this
23 requirement is not met shall toll the period of probation, i.e., the period of probation shall be
24 extended by one month for each month during which it is not met. During any such period,
25 Respondent must nonetheless comply with all terms and conditions of probation.

26 Should Respondent, regardless of state of residency, for any reason (including vacation)
27 cease practicing as a pharmacist intern in California for the hours required by his enrollment in a
28

1 school of pharmacy, Respondent must notify the Board in writing within ten (10) days of the
2 cessation of practice, and must further notify the Board in writing within ten (10) days of the
3 resumption of practice. Any failure to provide such notification(s) shall be considered a violation
4 of probation.

5 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
6 provisions of this condition for a total period, counting consecutive and non-consecutive months,
7 exceeding thirty-six (36) months.

8 "Cessation of practice" means any calendar month during which Respondent is
9 not employed as a pharmacist intern for the number of hours required by his
10 enrollment in an approved pharmacy school or, after licensure as a pharmacist, is not
11 employed as a pharmacist, as defined by Business and Professions Code section 4000
12 et seq., for at least forty (40) hours during the month. "Resumption of practice"
13 means any calendar month during which Respondent is employed as a pharmacist
14 intern for the number of hours required by his enrollment in an approved pharmacy
15 school or, after licensure as a pharmacist, is employed as a pharmacist, as defined by
16 Business and Professions Code section 4000 et seq., for at least forty (40) hours
17 during the month.

18 **16. Tolling of Suspension**

19 During any suspension to be served pursuant to this decision, Respondent shall not
20 leave California for any period exceeding ten (10) days, regardless of purpose (including
21 vacation). Any such absence in excess of ten (10) days during any such suspension shall be
22 considered a violation of probation.

23 Moreover, any absence from California exceeding ten (10) days during any such
24 period of suspension to be served pursuant to this decision shall toll the suspension, i.e., the
25 suspension shall be extended by one day for each day over ten (10) days Respondent is
26 absent from California. During any such period of tolling of suspension, Respondent must
27 nonetheless comply with all terms and conditions of probation.
28

1 If Respondent leaves California during any period of suspension for any period
2 exceeding ten (10) days, including vacation, Respondent must notify the Board in writing
3 within ten (10) days of departure, and must further notify the Board in writing within ten
4 (10) days of return. Any failure to timely provide such notification(s) shall constitute a
5 violation of probation. Upon any such departure and return, Respondent shall not resume
6 practice until notified by the Board that the period of suspension has been satisfactorily
7 completed.

8 **21. Violation of Probation**

9 If Respondent has not complied with any term or condition of probation, the Board
10 shall have continuing jurisdiction over Respondent, and probation shall automatically be
11 extended until all terms and conditions have been satisfied or the Board has taken other
12 action as deemed appropriate to treat the failure to comply as a violation of probation, to
13 terminate probation, and/or to impose the penalty that was stayed.

14 If Respondent violates probation in any respect, the Board, after giving Respondent
15 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
16 order that was stayed. Notice and opportunity to be heard are not required for those
17 provisions stating that a violation thereof may lead to automatic termination of the stay
18 and/or revocation of the license. If a petition to revoke probation or an accusation is filed
19 against Respondent during probation, the Board shall have continuing jurisdiction and the
20 period of probation shall be automatically extended, until the petition to revoke probation or
21 accusation is heard and decided.

22 **17. Completion of Probation**

23 Upon written notice by the Board or its designee indicating successful completion of
24 probation, Respondent's registration and/or license will be fully restored.

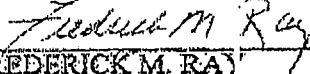
25 ACCEPTANCE

26
27 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
28 discussed it with my attorney, Fredrick M. Ray. I understand the stipulation and the effect it will

1 have on my Pharmacy Intern Permit and any subsequent license(s) I may acquire. I enter into this
 2 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
 3 to be bound by the Decision and Order of the Board of Pharmacy.

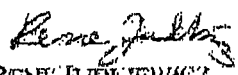
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 5 DATED: 12/13/09 
 6 KWAKU YEBOAH AGYEMAN
 Respondent

7 I have read and fully discussed with Respondent Kwaku Yeboah Agyeman the terms and
 8 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
 9 I approve its form and content.

10 DATED: 12/11/09 
 11 FREDERICK M. RAY
 Attorney for Respondent

12
 13
 14
 15
 16
 17 **ENDORSEMENT**

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
 19 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

20 Dated: 12/11/09 Respectfully Submitted,
 21
 22 EDMUND G. BROWN JR.
 Attorney General of California
 23 KAREN B. CHAPPELLE
 Supervising Deputy Attorney General
 24
 25 
 26 RENE JUREK
 Deputy Attorney General
 Attorneys for Complainant

27 LA2609603210
 28 60498975.doc

1 have on my Pharmacy Intern Permit and any subsequent license(s) I may acquire. I enter into this
2 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
3 to be bound by the Decision and Order of the Board of Pharmacy.

4

5 DATED: _____
6 KWAKU YEBOAH AGYEMAN
Respondent

7 I have read and fully discussed with Respondent Kwaku Yeboah Agyeman the terms and
8 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
9 I approve its form and content.

10 DATED: _____
11 FREDERICK M. RAY
Attorney for Respondent

12

13

14

15

16

17

ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

20

21 Dated: 12/11/09

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General

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25

Rene Judkiewicz
RENE JUDKIEWICZ
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 3342

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RENE JUDKIEWICZ
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Attorneys for Complainant

7
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**
13 **24920 Mound Street**
Loma Linda, CA 92350
14 **Intern Pharmacist Applicant**

STATEMENT OF ISSUES

15 Respondent.

16
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

1
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.

10

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.

24

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 “(1) Medical or psychiatric evaluation.

4 “(2) Continuing medical or psychiatric treatment.

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

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

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

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

9 “(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.

