

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

In the Matter of the Statement of Issues
Against:

YAZEN QAMOH,

Pharmacist Applicant

Respondent.

Case No. 5949

OAH No. 2017011155

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on June 29, 2017.

It is so ORDERED on May 30, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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PROPOSED DECISION

Debra D. Nye-Perkins, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter in San Diego, California on March 29, 2017.

Kevin W. Messer, Deputy Attorney General, represented Virginia Herold (complainant), Executive Officer, Board of Pharmacy.

Yazen Qamoh, respondent, appeared on his own behalf.

The matter was submitted for decision on March 29, 2017.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 11, 2016, the board received an Application for Pharmacist Examination and Licensure from respondent. Respondent disclosed on his application that he had a prior conviction on June 8, 2012, for possession of a controlled substance in the state of Alabama. Respondent also disclosed on his application that his Colorado pharmacist license had been disciplined.

2. Respondent received his Pharmacist License, number 20120, from the state of Colorado on September 23, 2013. On May 9, 2014, respondent and the Colorado Board of Pharmacy entered into a stipulation, effective May 19, 2014, whereby the Colorado Board of Pharmacy issued a Letter of Admonition to respondent based upon a prescription error respondent made soon after receiving his Colorado pharmacist license. Respondent's Colorado Pharmacist License remains active and in good standing.

3. On November 14, 2016, complainant signed the Statement of Issues, which sought denial of respondent's application for a Pharmacist License because he violated drug and pharmacy laws based on the circumstances of his June 8, 2012, guilty plea to the unlawful possession of a controlled substance in the Baldwin County Circuit Court in the State of Alabama in Case No. CC-2012-001053. Complainant further requested that respondent be prohibited from receiving his Pharmacist License based upon the 2014.

4. discipline of respondent's Colorado Pharmacist License by the Colorado Board of Pharmacy.

5. The Statement of Issues and other required jurisdictional documents were served on respondent.

6. Respondent filed a timely Notice of Defense, and this hearing followed.

Respondent's Conviction

7. On May 21, 2012, in Case No. DC-2012-002217 in Baldwin County District Court, State of Alabama, respondent was charged with violating AC section 13A-12-212, subdivision (A)(1), unlawful possession of psilocybin, a controlled substance, a felony. Under AC section 15-15-20.1, respondent waived his right to a Grand Jury consideration, made known his intention to plead guilty to an Information duly filed in Baldwin County Circuit Court by the Assistant District Attorney under Rule 2.2(e) of the Alabama Rules of Criminal Procedure, and applied for acceptance in Alabama's pre-trial intervention program (PTIP)¹.

8. On June 8, 2012, in Case No. CC-2012-001053 in Baldwin County District Court, State of Alabama, respondent pled guilty to violating AC section 13A-12-212, unlawful possession of controlled substance, by possessing psilocybin, a controlled substance in schedules I through V. As a result of his guilty plea, his felony charge in Case No. DC-2012-002217 was dismissed with conditions and he was accepted into the PTIP where adjudication and sentencing were deferred for a minimum period of three years, with a possibility of deferment for a maximum of five years. Respondent was ordered to participate in a rehabilitation program, and pay a PTIP application fee of \$350, a fine of \$250, several special assessments, and the costs and all court fees including court appointed attorney's fees. Respondent was also ordered to accept all the other conditions of the PTIP; a violation of any condition could lead to modifications of the conditions or revocation of the PTIP agreement.

9. On August 1, 2013, respondent successfully completed his substance abuse treatment. On January 16, 2013, respondent submitted proof of successful completion of his

¹ Alabama's PTIP for Non-Habitual Offenders is similar to California's Deferred Entry of Judgment Program.

treatment and paid all fines, fees and assessments in full. Respondent's oral motion not to prosecute was granted. On February 11, 2013, the District Attorney moved to vacate the guilty plea, declined to further prosecute the case, and recommended that the court dismiss the charge. The Alabama court granted respondent's motion to withdraw the guilty plea and dismissed the case under the PTIP agreement.

Circumstances of Respondent's Conviction

10. On May 18, 2012, respondent was arrested at the front gate of the Hangout Music Festival in Gulf Shores, Alabama.² An officer with the Gulf Shores Police Department was working at the front gate of the music festival when respondent tried to enter. The officer noticed a bulge in respondent's waistband around his waist area. The officer pulled respondent aside and asked him to raise his shirt. Respondent complied, and the officer noticed a Keystone Beer can stuffed down the front of his pants. The officer conducted a further search and discovered a plastic bag in the right cargo pocket of respondent's shorts containing hallucinogenic mushrooms. Respondent was arrested for possession of a controlled substance.

Testimony of Brandon Mutrux

11. Brandon Mutrux is an inspector on the drug diversion and fraud team of the California Board of Pharmacy. He has held that position since 2012. His duties include inspecting licensees and licensed facilities on behalf of the board to ensure compliance with the laws and regulations related to the board. Additionally, he investigates consumer complaints regarding licensees and facilities, including complaints related to drug diversion, fraud, and theft. Prior to working for the board, he was employed as a pharmacist for three to four years. Dr. Mutrux has had his California Pharmacist License since 2008.

12. Dr. Mutrux testified the duties of a licensed pharmacist include the dispensing of pharmaceuticals to patients, as well as providing consultation services to patients. He stated the role of the board in regulating pharmacists is to protect the public and ensure that all California pharmacists are capable of performing their job safely. In considering a new

² These factual findings are based in part on information included in the police report and were received under *Lake v. Reed* (1997) 16 Cal.4th 448, which held that portions of a law enforcement officer's report are admissible in an administrative proceeding over a hearsay objection, including the officer's percipient observations (also admissible as a public employee records exception, under Evidence Code section 1280) and the party's admissions (admissible as declarations against interest under Evidence Code section 1220). Under Government Code section 11513, subdivision (c), the admissible hearsay can support a factual finding, and the remaining hearsay statements (administrative hearsay) can be used to supplement or explain other evidence on which a factual finding can be made. (*Lake v. Reed* (1997) *supra.*, at p. 464.)

application for a pharmacist license, the board looks at the overall character of the applicant, including whether the applicant has any prior convictions. Any prior convictions related to the use or possession of controlled substances is particularly concerning to the board because a pharmacist licensee has unrestricted access to controlled substances and patient information and a history of drug abuse can mean the applicants may be a danger to themselves and/or the public.

13. Dr. Mutrux also stated that if an individual has received discipline from another state board of pharmacy, the California board gives great weight to such out of state discipline when considering whether to take disciplinary action against a licensed pharmacist or an applicant for a pharmacy license. Dr. Mutrux reviewed respondent's records from the Colorado Board of Pharmacy and testified they indicated the letter of admonition issued to respondent in Colorado was based upon a prescription error respondent made soon after he received his Colorado pharmacist license and was not based upon his 2012 conviction in Alabama.

Respondent's Testimony

14. Yazen Qamoh is 30 years old and has worked as a pharmacist for Albertson's Safeway in Colorado for the past three years. Respondent received his Doctorate of Pharmacy degree from the University of Colorado in May 2013. He received his Colorado Pharmacist License thereafter in 2013. During the past three years he has worked as a floater pharmacist at various Albertson's Safeway locations in Colorado. His responsibilities include ordering controlled substances, prescribing pharmaceuticals, consulting patients, and managing the pharmacies. On two occasions he worked for four months at a time as a temporary Albertson's pharmacy manager until a permanent pharmacy manager was found. His last period working as a pharmacy manager was from November 2016 to February 2017.

15. Respondent testified that prior to receiving his Colorado Pharmacist License, the Colorado Board of Pharmacy required that he have a psychologic evaluation. Thereafter, the Colorado board granted him his pharmacist license in 2013 with no restrictions. Respondent testified he had been practicing for only one or two weeks when he accidentally gave a patient the wrong medication. He recognized the error and told the patient that he would fix the problem for her. However, respondent did not have enough of the prescribed medication to fill the entire prescription. He provided the patient with a partial bottle of the correct medication and instructed her to come the next day for the remainder. When the patient arrived the next day, another pharmacist gave the patient the wrong medication to complete the prescription, and the patient complained to the Colorado Board of Pharmacy.

16. At the hearing, respondent admitted his error and was disappointed in himself for making the mistake. Respondent recognized the seriousness of the mistake and stated he has taken steps to make sure such an error will not happen in the future. This incident ultimately resulted in the Colorado board issuing a letter of admonition to respondent. Respondent testified that he received the letter of admonition only one month after receiving his Colorado pharmacist license. He has had no other issues since that time.

17. Respondent testified regarding the circumstances of his 2012 arrest and resulting conviction. The arrest happened during the summer after his third year of pharmacy school and before his graduation in May 2013. He was attending the Gulf Shores music festival in Gulf Shores, Alabama. Respondent obtained a bag of hallucinogenic mushrooms from a friend prior to entering the music festival and was arrested after a police officer searched him at the entrance to the festival. Respondent testified he had never been arrested before this incident, and he had no interactions with law enforcement before that arrest and has had none since. Respondent described the experience as “eye opening,” and it made him realize how all of his hard work could be erased by one stupid mistake. He stated the experience was a wake-up call for him and made him take his job as a pharmacist much more seriously. Respondent testified that prior to his arrest, he had smoked marijuana on rare occasions while he was in high school, but he had never used any other drugs and had never used hallucinogenic mushrooms. Respondent stated that after his arrest, he never used any illegal substances again because he realized that he needed to take his own actions much more seriously. He stated that he has never had a drug dependency and only drinks alcohol occasionally.

18. Respondent testified that as a result of his arrest and conviction he successfully completed the drug treatment program ordered by the court. He stated he has not undergone any other drug treatment program, he does not have a drug dependency and does not use controlled substances for any purpose.

19. Respondent testified he has successfully worked for the past three years as a pharmacist in Colorado, has never had any discipline from his employer, and has only received positive feedback. He enjoys being a pharmacist and would like to move back to California to be closer to his family.

Other Evidence

20. Respondent submitted a letter from Jessica Wilts, Pharm.D., a Patient Care Services Manager at Albertson’s Safeway, Colorado. Dr. Wilts has worked with respondent over the past three years in different capacities. She wrote that respondent is dependable, responsible and takes his job as a pharmacist very seriously. She further wrote that respondent shows professionalism and takes ownership of the patients at each location where he works. Dr. Wilts wrote that respondent would be a valuable asset to the pharmacy profession of any state.

LEGAL CONCLUSIONS

Applicable Statutes and Regulations

1. Pursuant to 4300, subdivision (c), the Board may “refuse a license to any applicant guilty of unprofessional conduct.”

2. Business and Professions Code section 4301 defines “unprofessional conduct” to include:

[¶] . . . [¶]

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

[¶] . . . [¶]

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter that would be grounds for revocation, suspension, or other discipline under this chapter. Any disciplinary action taken by the board pursuant to this section shall be coterminous with action taken by another state, except that the term of any discipline taken by the board may exceed that of another state, consistent with the board’s enforcement guidelines. The evidence of discipline by another state is conclusive proof of unprofessional conduct.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency. . . .

3. Business and Professions Code section 475, states in part:

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

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially

benefit himself or another, or substantially injure another.

(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.

4. Business and Professions Code section 480, subdivision (a)(3)(A), further provides for denial of a license where an applicant has 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”

5. Business and Professions Code section 493 states in part:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the 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, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

6. Business and Professions Code section 4060 states in part:

A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any controlled substance by a manufacturer, wholesaler, third-party logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse

practitioner, or physician assistant, if in stock in containers correctly labeled with the name and address of the supplier or producer.

7. Health and Safety Code section 11054 states in part:
(a) The controlled substances listed in this section are included in 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):

[¶] . . . [¶]

(18) Psilocybin.

[¶] . . . [¶]

8. In California Code of Regulations, title 16, section 1769, the Board has set forth the following criteria for rehabilitation when considering the denial of a license:

(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.

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

Cause Exists to Deny Respondent's Application for Licensure

10. Cause was established under Business and Professions Code sections 475, subdivision (a)(4); 480, subdivision (a)(3)(A); and 4301, subdivision (j), to deny respondent's application. He violated Alabama Code (AC) section 13A-12-212, unlawful possession or receipt of controlled substances, which would be grounds for discipline for a California licensed pharmacist under Business and Professions Code section 4301, subdivision (j).

11. Cause was established under Business and Professions Code sections 475, subdivision (a)(4); 480, subdivision (a)(3)(A); and 4301, subdivision (o), to deny respondent's application. He unlawfully possessed psilocybin in 2012, which would be a violation of Business and Professions Code section 4060, regulating controlled substances and dangerous drugs, which would be grounds for discipline for a California licensed pharmacist under Business and Professions Code section 4301, subdivision (o).

12. Cause was established under Business and Professions Code sections 475, subdivision (a)(4); 480, subdivision (a)(3)(A), to deny respondent's application. His license to practice pharmacology in Colorado was disciplined by the state of Colorado, Department of Regulatory Agencies, Division of Professions and Occupations, State Board of Pharmacy, which would be grounds for discipline for a California licensed pharmacist under Business and Professions Code section 4301, subdivision (n).

Evaluation

13. Legal grounds exist for denying respondent's application to become a pharmacist. However, respondent has demonstrated significant and sustained rehabilitation. Respondent's conviction arose from an incident that occurred about five years ago. Respondent has incurred no further arrests or convictions and has abstained from the possession or consumption of any controlled substances since his arrest in 2012. He has abided by the terms of the Alabama PTIP agreement and the charges brought against him were dismissed.

14. Respondent has worked successfully for three years as a pharmacist in Colorado and has moved forward with his life. He enjoys working as a pharmacist, and has taken serious steps to move his life in a positive direction. He provided a letter of support from a co-worker pharmacist where he is currently employed. Respondent's actions are consistent with those of a person who has made truly substantial progress towards rehabilitation. His desire to move back to California to be closer to his family is the reason he seeks licensure in California.

15. The evidentiary significance of an individual's misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*In Re Gossage* (2000) 23 Cal.4th 1080, 1098; *Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) One of the most crucial indicators of rehabilitation is sustained good conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 987, 991.) By this yardstick, respondent has demonstrated rehabilitation.

16. Rehabilitation is also a state of mind. The law looks with favor upon rewarding with the opportunity to serve one who has achieved reformation and regeneration. (*Hightower v. State Bar* (1983) 34 Cal.3d 150, 157.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Respondent has been forthcoming about his 2012 arrest and conviction. Respondent demonstrated the state of mind of someone who has made substantial progress toward rehabilitation.

17. The primary purpose of the board is to protect the public. (Bus. & Prof. Code, § 4001.1.) "Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." *Id.* Appropriate terms and conditions of probation will enable the board to meet its responsibility to protect the public and ensure, through its oversight, that respondent's rehabilitation continues once he begins to practice as a pharmacist.

18. The board's Disciplinary Guidelines (the guidelines) were created, in part, to provide public protection. Imposing requirements upon respondent beyond that required to protect the public would be punitive and impermissible. (*Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.) Respondent has demonstrated good conduct over the past five years and has provided sufficient rehabilitation evidence to demonstrate that an outright denial of his pharmacist license would be impermissibly punitive in nature and beyond that required to protect the public.

19. The evidence established that respondent can be an asset to the profession, and the public will benefit from his service. Therefore, to best ensure public protection and provide a meaningful measurement of respondent's continued rehabilitation, respondent, in addition to complying with the standard terms and conditions of probation, should be required to comply with the optional conditions in the guidelines that he abstain from drugs or alcohol and undergo random drug screenings. Because respondent's conviction is of such a serious nature, and he has a history of marijuana use, the random drug screenings and

requirement to abstain from drug and alcohol use will provide a valuable safeguard to the public to ensure his safe practice as a pharmacist. This additional safeguard, along with the standard conditions, should be sufficient to ensure that the public is protected as respondent takes on the duties and responsibilities of a pharmacist in California.

ORDER

Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to respondent, Yazen Quamoh, and immediately revoked; the order of revocation is stayed, and respondent is placed on probation for three years upon the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's Colorado license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

2. Report to the Board

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

3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to cooperate shall be considered a violation of probation.

5. Continuing Education

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board or its designee.

6. Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers in California of the decision in case number 5949 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment in California, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5949, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his or her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 5949 in advance of the respondent commencing work at each licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment in California by or through a pharmacy employment service, respondent shall cause his or her direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she

has read the decision in case number 5949 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective California employer(s) or to cause that/those employer(s) to submit timely acknowledgments to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as Designated Representative-in-Charge, or Serving as a Consultant

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board nor serve as a consultant in California unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

8. Probation Monitoring Costs

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

9. Status of License

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

If respondent's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

10. License Surrender While on Probation

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board or its

designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket and wall license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

11. Notification of a Change in Name, Residence Address, Mailing Address or Employment

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

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

13. Tolling of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease practicing as a pharmacist for a minimum of 80 hours per calendar month in California, respondent must notify the board in writing within ten (10) days of the cessation of practice, and must further notify the board in writing within ten (10) days of the resumption of practice. Any failure to provide such notification(s) shall be considered a violation of probation.

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

“Cessation of practice” means any calendar month during which respondent is not practicing as a pharmacist in California for at least 80 hours, as defined by Business and Professions Code section 4000 *et seq.* “Resumption of practice” means any calendar month during which respondent is practicing as a pharmacist in California for at least 80 hours as a pharmacist as defined by Business and Professions Code section 4000 *et seq.*

Respondent is required to practice as a pharmacist in a licensed pharmacy setting that dispenses medication for a minimum of one year prior to the completion of probation. After the first year of probation, the board or its designee may consider a modification of this requirement. If respondent fails to comply with this requirement or a subsequent modification thereto, such failure shall be considered a violation of probation.

14. Violation of Probation

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

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

15. Completion of Probation

Upon written notice by the board or its designee indicating successful completion of probation, respondent's license will be fully restored.

16. Random Drug Screening

Respondent, at his own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee. At all times, respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the board or

its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension of practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until notified by the board in writing.

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 controlled substances. Respondent shall not resume practice until notified by the board.

During suspension respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

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17. **Abstain from Drugs and Alcohol Use**

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

DATED: April 28, 2017

DocuSigned by:
Debra Nye-Perkins
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DEBRA D. NYE-PERKINS
Administrative Law Judge
Office of Administrative Hearings

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

12 In the Matter of the Statement of Issues Against: Case No. 5949

13 **YAZEN QAMOH**

STATEMENT OF ISSUES

14 **Pharmacist License Applicant**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On January 11, 2016, the Board received an application for a Pharmacist License
23 from Yazen Qamoh (Respondent). On December 2, 2015, Yazen Qamoh certified under penalty
24 of perjury to the truthfulness of all statements, answers, and representations in the application.

25 The Board denied the application on June 24, 2016.

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JURISDICTION

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

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:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(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.

....

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.

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

3 8. Code section 493 states:

4 Notwithstanding any other provision of law, in a proceeding conducted by
5 a board within the department pursuant to law to deny an application for a license
6 or to suspend or revoke a license or otherwise take disciplinary action against a
7 person who holds a license, upon the ground that the applicant or the licensee has
8 been convicted of a crime substantially related to the qualifications, functions, and
9 duties of the licensee in question, the record of conviction of the crime shall be
10 conclusive evidence of the fact that the conviction occurred, but only of that fact,
11 and the board may inquire into the circumstances surrounding the commission of
12 the crime in order to fix the degree of discipline or to determine if the conviction
13 is substantially related to the qualifications, functions, and duties of the licensee in
14 question.

15 As used in this section, "license" includes "certificate," "permit,"
16 "authority," and "registration."

17 9. Code section 4060 states:

18 A person shall not possess any controlled substance, except that furnished
19 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
20 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
21 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
22 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
23 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
24 pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not
25 apply to the possession of any controlled substance by a manufacturer,
26 wholesaler, third-party logistics provider, pharmacy, pharmacist, physician,
27 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-
28 midwife, nurse practitioner, or physician assistant, if in stock in containers
correctly labeled with the name and address of the supplier or producer.

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

10. Code section 4301 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 procured by fraud or
misrepresentation or issued by mistake. Unprofessional conduct shall include, but
is not limited to, any of the following:

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1 (j) The violation of any of the statutes of this state, of any other state, or of
2 the United States regulating controlled substances and dangerous drugs.

3 ...

4 (n) The revocation, suspension, or other discipline by another state of a
5 license to practice pharmacy, operate a pharmacy, or do any other act for which a
6 license is required by this chapter.

7 (o) Violating or attempting to violate, directly or indirectly, or assisting in
8 or abetting the violation of or conspiring to violate any provision or term of this
9 chapter or of the applicable federal and state laws and regulations governing
10 pharmacy, including regulations established by the board or by any other state or
11 federal regulatory agency.

12

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

14 (a) The controlled substances listed in this section are included in
15 Schedule I.

16 ...

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

24 ...

25 (18) Psilocybin.

26

27 12. Health & Safety Code section 11377, subdivision (a) states:

28 Except as authorized by law and as otherwise provided in subdivision (b)
or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
Division 2 of the Business and Professions Code, every person who possesses any
controlled substance which is (1) classified in Schedule III, IV, or V, and which is
not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except
paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph
(11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of
subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of
Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or
veterinarian, licensed to practice in this state, shall be punished by imprisonment
in a county jail for a period of not more than one year or pursuant to subdivision
(h) of Section 1170 of the Penal Code.

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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.

....

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

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DRUG

16. Psilocybin is a Schedule I controlled substance as designated by Health and Safety Code section 11054, subdivision (d)(18), and is categorized as a dangerous drug under Code section 4022.

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Act If Done By Licentiate – Violation of Drug Regulation Laws)**

3 17. Respondent's application for a Pharmacist License is subject to denial under Code
4 sections 475, subdivision (a)(4), and 480, subdivision (a)(3)(A) in that he violated Alabama Code
5 (AC) section 13A-12-212¹, unlawful possession or receipt of controlled substances, which would
6 be a ground for discipline for a licensed pharmacist under Code section 4301, subdivision (j).

7 The circumstances are as follows:

8 a. On May 18, 2012, Respondent went to the Hangout Music Festival being
9 held at Gulf Shores Parkway in Gulf Shores, Alabama. While at the main gate safety checkpoint,
10 an officer from the Gulf Shores Police Department noticed a bulge near Respondent's belly
11 button area. During a search of Respondent's person, the officer found in Respondent's cargo
12 shorts pocket a plastic bag containing hallucinogenic mushrooms. Respondent was arrested for
13 possession of a controlled substance and processed into the Correction's Command of the
14 Baldwin County Sheriff's Office.

15 b. As a result of Respondent's arrest, on May 21, 2012, in a criminal
16 proceeding entitled *The State of Alabama vs. Yazen Qamoh*, in Baldwin County District Court,
17 District Criminal Case Number DC-2012-002217, Respondent was charged with violation of AC
18 section 13A-12-212, subdivision (A)(1), a felony. On May 25, 2012, under AC section 15-15-
19 20.1, Respondent waived his right to a Grand Jury consideration, made known his intention to
20 plead guilty to an Information duly filed in Baldwin County Circuit Court by the Assistant
21 District Attorney under Rule 2.2(e) of the Alabama Rules of Criminal Procedure, and applied for
22 acceptance in Alabama's pre-trial intervention program (PTIP)².

23 ¹ (a) A person commits the crime of unlawful possession of controlled substance if:
24 (1) Except as otherwise authorized, he possesses a controlled substance enumerated in
25 Schedules I through V.
26 (2) He obtains by fraud, deceit, misrepresentation or subterfuge or by the alteration of a
27 prescription or written order or by the concealment of a material fact or by the use of a false name
28 or giving a false address, a controlled substance enumerated in Schedules I through V.
(b) Unlawful possession of a controlled substance is a Class C felony. (Alabama Code 2010)

² Alabama's Pre-Trial Intervention Program for Non-Habitual Offenders is similar to California's
Deferred Entry of Judgment Program.

1 c. On June 8, 2012, in a criminal proceeding entitled *The State of Alabama*
2 *vs. Yazen Qamoh*, in Baldwin County Circuit Court, Circuit Criminal Case Number CC-2012-
3 001053, Respondent pled guilty to violating AC section 13A-12-212, unlawful possession of
4 controlled substance, by possessing psilocybin, a controlled substance enumerated in schedules I
5 through V. As a result of Respondent's guilty plea, his felony charge in District Criminal Case
6 Number DC-2012-002217 was dismissed with conditions and he was accepted into the PTIP for
7 a minimum period of three years, with the possibility of deferment to a maximum of five years.
8 Respondent was ordered to pay a PTIP application fee of \$350.00, a fine of \$250.00, several
9 special assessments, and the costs and all fees of court to include court appointed attorney's fees.
10 Respondent was also ordered to accept all the other conditions of the PTIP, a violation of which
11 could lead to modifications of the conditions or revocation of the PTIP agreement.

12 d. On August 1, 2013, Respondent successfully completed his substance
13 abuse treatment. On January 16, 2013, Respondent submitted proof of successful completion of
14 his treatment and paid all fines, fees, and assessments in full. Respondent's oral motion not to
15 prosecute was granted. On February 11, 2013, the District Attorney moved to vacate the guilty
16 plea, declined to further prosecute the case, and recommended that the court dismiss the charge.
17 The court granted Respondent's motion to withdraw his guilty plea and dismissed the case under
18 the PTIP agreement.

19 **SECOND CAUSE FOR DENIAL OF APPLICATION**

20 **(Act If Done By Licentiate –Violation of Pharmacy Laws)**

21 18. Respondent's application for a Pharmacist License is subject to denial under Code
22 sections 475, subdivision (a)(4), and 480, subdivision (a)(3)(A) in that on May 18, 2012, as
23 detailed in paragraph 17, above, he unlawfully possessed psilocybin, which would be a violation
24 of Code section 4060, a misdemeanor, violating a statute of the State of California regulating
25 controlled substances and dangerous drugs, and which would be a ground for discipline for a
26 licensed pharmacist under Code section 4301, subdivision (o).

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1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 (Act If Done By Licentiate – 2014 Discipline by an Out of State Government Agency)

3 19. Respondent’s application for a Pharmacist License is subject to denial under Code
4 sections 475, subdivision (a)(4), and 480, subdivision (a)(3)(A) in that his license to practice
5 pharmacy in Colorado was disciplined by the State of Colorado, Department of Regulatory
6 Agencies, Division of Professions and Occupations, State Board of Pharmacy (Colorado Board),
7 which would be a ground for discipline for a licensed pharmacist under Code section 4301,
8 subdivision (n). The circumstances are as follows:

9 a. On May 19, 2014, the Colorado Board approved and accepted an Agreed
10 Stipulation and issued a Final Agency Order against Respondent’s pharmacist license in Case
11 Number: 2013-3915 entitled, *In the Matter of the Disciplinary Proceedings Regarding the*
12 *License to Practice Pharmacy in the State of Colorado of Yazen Qamoh, R.Ph., License No. PHA*
13 *20120*. Under Colorado Revised Statutes (CRS) section 12-42.5-124, subdivisions (6)(b)³ and
14 (6)(c)⁴, the Final Agency Order constituted a Letter of Admonition. The Colorado Board
15 admonished Respondent and cautioned against future repetition of the same or similar conduct.
16 The Colorado Board ordered Respondent to pay all fees and costs associated with the Final
17 Agency Order. The Colorado Board also ordered Respondent to fully comply with the Final
18 Agency Order, the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act, all Board rules
19 and regulations, and any other state and federal laws and regulations related to pharmaceuticals
20 and pharmacists in the State of Colorado.

21 b. The facts that led to the discipline are that on November 17, 2013,
22 Respondent performed the initial interpretation and final evaluation of an order for Fiorinal/
23

24 ³ (b) When the board sends a letter of admonition to a licensee or registrant complained against,
25 the board shall include in the letter a statement advising the licensee or registrant that the licensee
26 or registrant has the right to request in writing, within twenty days after receipt of the letter, that
the board initiate formal disciplinary proceedings to adjudicate the propriety of the conduct upon
which the letter of admonition is based.

27 ⁴ (c) If the licensee or registrant timely requests adjudication, the letter of admonition is vacated,
28 and the board shall process the matter by means of formal disciplinary proceedings.

1 Codeine #3, which was dispensed as butalbital/acetaminophen/caffeine/codeine. Respondent
2 admitted and the Colorado Board found true that Respondent's conduct constituted a violation of
3 CRS sections 12-42.5-120(1)⁵, 12-42.5-122(1)⁶, 12-42.5-123(1)⁷ subdivisions (c)(I), (c)(II),
4 (c)(III), and (k), and 12.42.5-126(1)⁸, subdivisions (g) and (h). Respondent's conduct was also in
5 violation of State of Colorado Board of Pharmacy Rules 1.00.11, 2.01.10(c), and 3.00.50,
6 subdivisions (a) and (b).

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9 ⁵ (1) Except as provided in section 18-18-414, C.R.S., and subsection (2) of this section, an order
10 is required prior to dispensing any prescription drug. Orders shall be readily retrievable within the
11 appropriate statute of limitations.

12 ⁶ (1) A pharmacist filling a prescription order for a specific drug by brand or proprietary name
13 may substitute an equivalent drug product if the substituted drug product is the same generic drug
14 type and, in the pharmacist's professional judgment, the substituted drug product is
15 therapeutically equivalent, is interchangeable with the prescribed drug, and is permitted to be
16 moved in interstate commerce. A pharmacist making a substitution shall assume the same
17 responsibility for selecting the dispensed drug product as he or she would incur in filling a
18 prescription for a drug product prescribed by a generic name; except that the pharmacist is
19 charged with notice and knowledge of the federal food and drug administration list of approved
20 drug substances and manufacturers that is published periodically.

21 ⁷ (1) The board may suspend, revoke, refuse to renew, or otherwise discipline any license or
22 registration issued by it, after a hearing held in accordance with the provisions of this section,
23 upon proof that the licensee or registrant:

24 ...
25 (c) Has violated:

26 (I) Any of the provisions of this article, including commission of an act declared unlawful in
27 section 12-42.5-126;

28 (II) The lawful rules of the board; or

(III) Any state or federal law pertaining to drugs;

...

(k) Has failed to meet generally accepted standards of pharmacy practice;

29 ⁸ (1) It is unlawful:

...

30 (g) To sell, compound, dispense, give, receive, or possess any drug or device unless it was
31 sold, compounded, dispensed, given, or received in accordance with sections 12-42.5-118 to 12-
32 42.5-122;

33 (h) Except as provided in section 12-42.5-122, to dispense a different drug or brand of drug in
34 place of the drug or brand ordered or prescribed without the oral or written permission of the
35 practitioner ordering or prescribing the drug;

36

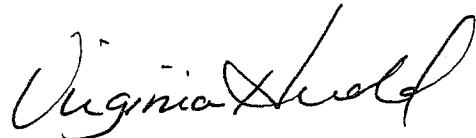
PRAYER

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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 Yazen Qamoh for a Pharmacist License; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 11/14/16



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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