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

12 In the Matter of the Statement of Issues
Against:

Case No. 7375

13 **MARINA IBRAHIM ELISSA**
14 **BASKHROUN aka MARINA IBRAHIM**
ABASKHROUN

FIRST AMENDED
STATEMENT OF ISSUES

15 **Pharmacy Technician License Applicant**

16 Respondent.

17
18 **PARTIES**

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

22 2. On or about June 15, 2022, the Board of Pharmacy, Department of Consumer Affairs
23 received an application for a Pharmacy Technician License (application) from Marina Ibrahim
24 Elissa Baskhroun, also known as Marina Ibrahim Abaskhroun (Respondent). On or about June
25 15, 2022, Respondent certified under penalty of perjury to the truthfulness of all statements,
26 answers, and representations in the application. The Board denied the application on September
27 13, 2022.

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1 **JURISDICTION**

2 3. This First Amended Statement of Issues is brought before the Board of Pharmacy
3 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (c), of the Code provides, in pertinent part, that the Board
6 may refuse a license to any applicant guilty of unprofessional conduct. The Board may, in its sole
7 discretion, issue a probationary license to any applicant for a license who is guilty of
8 unprofessional conduct and who has met all other requirements for licensure.

9 5. On or about September 13, 2022, Respondent’s application was denied and, pursuant
10 to section 485, subdivision (b), of the Code, she was notified of the right to a hearing to appeal
11 that denial.

12 6. On or about September 20, 2022, the Board received Respondent’s request for a
13 hearing to appeal the denial of her application.

14 7. Code section 118, subdivision (a) states:

15 The withdrawal of an application for a license after it has been filed with a
16 board in the department shall not, unless the board has consented in writing to such
17 withdrawal, deprive the board of its authority to institute or continue a proceeding
18 against the applicant for the denial of the license upon any ground provided by law or
19 to enter an order denying the license upon any such ground.

18 **STATUTORY PROVISIONS**

19 8. Section 480 of the Code states, in pertinent part:

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

23 (1) The applicant has been convicted of a crime within the preceding seven years from
24 the date of application that is substantially related to the qualifications, functions, or duties
25 of the business or profession for which the application is made, regardless of whether the
26 applicant was incarcerated for that crime, or the applicant has been convicted of a crime
27 that is substantially related to the qualifications, functions, or duties of the business or
28 profession for which the application is made and for which the applicant is presently
incarcerated or for which the applicant was released from incarceration within the
preceding seven years from the date of application

...

1 (b) Notwithstanding any other provision of this code, a person shall not be denied a
2 license on the basis that the person has been convicted of a crime, or on the basis of acts
3 underlying a conviction for a crime, if that person has obtained a certificate of
4 rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3
of the Penal Code, has been granted clemency or a pardon by a state or federal executive,
or has made a showing of rehabilitation pursuant to Section 482.

5 (c) Notwithstanding any other provision of this code, a person shall not be denied a
6 license on the basis of any conviction, or on the basis of the acts underlying the
7 conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a,
8 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or
9 expungement. An applicant who has a conviction that has been dismissed pursuant
to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of
the dismissal if it is not reflected on the report furnished by the Department of Justice.

10 (d) Notwithstanding any other provision of this code, a board shall not deny a license
11 on the basis of an arrest that resulted in a disposition other than a conviction, including an
arrest that resulted in an infraction, citation, or a juvenile adjudication.

12 (e) A board may deny a license regulated by this code on the ground that the applicant
13 knowingly made a false statement of fact that is required to be revealed in the application
14 for the license. A board shall not deny a license based solely on an applicant's failure to
disclose a fact that would not have been cause for denial of the license had it been
disclosed.

15 ...

16
17 9. Section 493 of the Code states, in pertinent part:

18 (a) Notwithstanding any other law, in a proceeding conducted by a board
19 within the department pursuant to law to deny an application for a license or to
20 suspend or revoke a license or otherwise take disciplinary action against a person
21 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.

22
23 (b)(1) Criteria for determining whether a crime is substantially related to the
24 qualifications, functions, or duties of the business or profession the board regulates
shall include all of the following:

25 (A) The nature and gravity of the offense.

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

27 (C) The nature and duties of the profession.

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

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

4 ...

5 10. Section 4300, subdivision (c), of the Code states, in pertinent part, that the Board may
6 refuse a license to any applicant guilty of unprofessional conduct.

7 11. Section 475 of the Code states, in pertinent part:

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

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

11 (2) Conviction of a crime.

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

14 ...

15 12. Section 4301 of the Code states, in pertinent part:

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

18 ...

19 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
20 deceit, or corruption, whether the act is committed in the course of relations as a
licensee or otherwise, and whether the act is a felony or misdemeanor or not.

21 (g) Knowingly making or signing any certificate or other document that falsely
22 represents the existence or nonexistence of a state of facts.

23 (h) The administering to oneself, of any controlled substance, or the use of any
24 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
25 dangerous or injurious to oneself, to a person holding a license under this chapter, or
to any other person or to the public, or to the extent that the use impairs the ability of
the person to conduct with safety to the public the practice authorized by the license.

26 ...

27 (l) The conviction of a crime substantially related to the qualifications,
28 functions, and duties of a licensee under this chapter.

...

REGULATORY PROVISIONS

1
2 13. California Code of Regulations (CCR), title 16, section 1769, subdivision (b),
3 states:

4 (b) Denial of a license.

5 (1) When considering the denial of a facility or personal license under Section
6 480 of the Business and Professions Code on the grounds that the applicant has been
7 convicted of a crime, the board will consider whether the applicant made a showing
8 of rehabilitation if the applicant completed the criminal sentence at issue without a
9 violation of parole or probation. In making this determination, the board will consider
10 the following criteria:

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

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

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

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

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

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

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

26 (B) Evidence of any act(s), professional misconduct, or crime(s) committed
27 subsequent to the act(s), professional misconduct, or crime(s) under consideration as
28 grounds for denial under Section 480 of the Business and Professions Code.

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

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

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

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

14. CCR, title 16, section 1770 states, in pertinent part:

 (a) For the purpose of denial, suspension, or revocation of a personal or facility

1 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
2 Business and Professions Code, a crime, professional misconduct, or act shall be
3 considered substantially related to the qualifications, functions or duties of the
4 practice, profession, or occupation that may be performed under the license type
sought or held if to a substantial degree it evidences present or potential unfitness of
an applicant or licensee to perform the functions authorized by the license in a
manner consistent with the public health, safety, or welfare.

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

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

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

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

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

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

13 ...

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

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

17 **FIRST CAUSE FOR DENIAL OF APPLICATION**

18 (Conviction of a Substantially Related Crime)

19 15. Respondent's application for a pharmacy technician license is subject to denial under
20 Code sections 480, subdivision (a)(1), 4300, subdivision (c), and 4301, subdivision (l), in that on
21 or about June 28, 2021, in a criminal proceeding entitled *People v. Abaskhroun* in Placer County
22 Superior Court, Case Number 62-178941, Respondent was convicted on her plea of nolo
23 contendere of violating Vehicle Code section 23152, subdivision (a) (driving while under the
24 influence of an alcoholic beverage), a misdemeanor substantially related to the qualifications,
25 duties, and functions of a pharmacy technician, with an admission to having had a high blood
26 alcohol content of .20 or higher. As a result of her conviction, Respondent was sentenced to
27 probation for three years, ordered to serve thirty days in jail, abstain from the use or possession of
28 intoxicants, avoid places where alcohol is the chief item for sale, submit to alcohol testing as

1 directed, pay certain fines and fees, and complete a 9 month First Offender DUI program. The
2 facts that lead to the conviction are as follows:

3 16. On or about February 14, 2021, a witness observed Respondent back into a pole
4 surrounding an electrical box in a restaurant parking lot in Rocklin, California, and flee the scene.
5 The witness followed Respondent's vehicle to the apartment complex where Respondent lived,
6 and Respondent was subsequently contacted by a Rocklin Police officer. The police officer
7 observed Respondent's vehicle parked between two parking spaces with damage to the rear
8 bumper and taillight, and observed several bottles of wine on the floorboard inside the vehicle.
9 Respondent told the officer that she went to Safeway (across the street from the restaurant) to
10 shop, but there were no groceries in her vehicle. Respondent also told the officer that she drank a
11 bottle of wine before driving to Safeway. Respondent had a blood alcohol content of 0.23
12 percent.

13 **SECOND CAUSE FOR DENIAL OF APPLICATION**

14 (Dangerous Use of Alcoholic Beverages)

15 17. Respondent's application is subject to denial under Code sections 4300, subdivision
16 (c), and 4301, subdivision (h), in that, as set forth in paragraph 16 above, on or about February
17 14, 2021, Respondent consumed alcoholic beverages to the extent, or in a manner, as to be
18 dangerous or injurious to herself and the public.

19 **THIRD CAUSE FOR DENIAL OF APPLICATION**

20 (Providing False Information in Application)

21 18. Respondent's application is subject to denial under Code sections 480, subdivision
22 (e), 4300, subdivision (c), and 4301, subdivisions (f) and (g), in that Respondent stated a false
23 date of birth in her application.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Board of Pharmacy issue a decision:

27 1. Denying the application of Marina Ibrahim Elissa Baskhroun, also known as Marina
28 Ibrahim Abaskhroun, for a Pharmacy Technician License; and,

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2. Taking such other and further action as deemed necessary and proper.

DATED: 2/26/2023

Sodergren,
Anne@DCA
ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

Digitally signed by Sodergren,
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