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

13 In the Matter of the Statement of Issues
Against:

14 **SAMUEL JINSUK YANG**

15 **Registered Pharmacist Applicant**

16 Respondent.

Case No. 7446

STATEMENT OF ISSUES

17
18 **PARTIES**

19 1. Anne Sodergren (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 October 17, 2022, the Board of Pharmacy, Department of Consumer
23 Affairs received a Pharmacist Examination for Licensure Application from Samuel Jinsuk Yang
24 (Respondent). On or about October 13, 2022, Samuel Jinsuk Yang certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on January 12, 2023.

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1 **JURISDICTION**

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 (Code) unless
4 otherwise indicated.

5 **STATUTORY AND REGULATORY PROVISIONS**

6 4. Section 480 of the Code states:

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

11 . . .

12 (2) The applicant has been subjected to formal discipline by a licensing
13 board in or outside California within the preceding seven years from the date of
14 application based on professional misconduct that would have been cause for
15 discipline before the board for which the present application is made and that is
16 substantially related to the qualifications, functions, or duties of the business or
17 profession for which the present application is made. However, prior disciplinary
18 action by a licensing board within the preceding seven years shall not be the basis for
19 denial of a license if the basis for that disciplinary action was a conviction that has
20 been dismissed pursuant to Section 1203.4 , 1203.4a , 1203.41 , or 1203.42 of the
21 Penal Code or a comparable dismissal or expungement.

22 5. Section 4300, subdivision (c) of the Code states:

23 . . .

24 (c) The board may refuse a license to any applicant guilty of unprofessional
25 conduct. The board may, in its sole discretion, issue a probationary license to any
26 applicant for a license who is guilty of unprofessional conduct and who has met all
27 other requirements for licensure. The board may issue the license subject to any
28 terms or conditions not contrary to public policy, including, but not limited to, the
following:

- 29 (1) Medical or psychiatric evaluation.
- 30 (2) Continuing medical or psychiatric treatment.
- 31 (3) Restriction of type or circumstances of practice.
- 32 (4) Continuing participation in a board-approved rehabilitation program.
- 33 (5) Abstention from the use of alcohol or drugs.
- 34 (6) Random fluid testing for alcohol or drugs.
- 35 (7) Compliance with laws and regulations governing the practice of pharmacy

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6. Section 4301 of the Code 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 issued by mistake. Unprofessional conduct includes, but is not limited to, any of the following:

....

(f) The commission of any act involving moral turpitude, dishonesty, fraud, 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.

....

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

(a) For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions or duties of the 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.

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

(1) The nature and gravity of the offense;

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

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

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

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

(2) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or any law of this state, or any other jurisdiction, relating to controlled substances or dangerous drugs.

(3) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction, relating to government provided or government supported healthcare.

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

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

FACTUAL ALLEGATIONS

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2 8. On September 30, 2015, the Board of Pharmacy issued Respondent Intern Pharmacist
3 License Number INT 36865. On May 30, 2019, the Board received Respondent’s Pharmacist
4 Examination for Licensure Application. On July 25, 2019, Respondent took the California
5 Practice Standards and Jurisprudence Examination for Pharmacists (CPJE). Prior to taking the
6 exam, Respondent knowingly obtained a document containing unauthorized reproduction of
7 several questions that had been improperly taken, removed, and/or copied from the CPJE.
8 Respondent utilized that document to prepare for the CPJE, and also shared the document with at
9 least two other individuals preparing for the CPJE. Respondent obtained additional questions
10 improperly taken, removed, and/or copied from the CPJE through conversations and written
11 communications with other individuals who had already taken the exam.

12 9. Respondent participated in an investigative interview with Board inspectors on
13 September 22, 2019. During that interview, Respondent admitted to receiving and distributing
14 CPJE test questions. These admissions included speaking to another pharmacist applicant about
15 specific test questions following her test, receiving an electronic document containing test
16 questions, forwarding the file to other pharmacist applicants, and receiving photos of test
17 questions from another individual. After that interview, Board inspectors contacted Respondent
18 and requested additional information. Respondent then disavowed all of the admissions of
19 misconduct and instead claimed that he was either misunderstood, or did not know what was
20 happening.

21 10. On November 19, 2019, the Board denied Respondent’s Pharmacist Examination for
22 Licensure based on Respondent’s use and share of a file containing questions from the CPJE.
23 Respondent appealed the denial. Thereafter, the Board issued a Statement of Issues (SOI) in a
24 case entitled, *In the Matter of the Statement of Issues Against: Samuel Jinsuk Yang*, Case Number
25 6883.

26 11. On December 20, 2019, the Board issued an Accusation in a case entitled *In the*
27 *Matter of the Accusation Against: Samuel Jinsuk Yang*, Case Number 6869, against Respondent’s
28 Intern Pharmacist License alleging that Respondent subverted a license exam, committed

1 dishonest conduct, engaged in examination misconduct, and committed conduct warranting the
2 denial of a license. The SOI and the Accusation were consolidated for an administrative hearing
3 which was held on July 15 and 16, 2020, before an Administrative Law Judge (ALJ) at the Office
4 of Administrative Hearings. At that hearing, Respondent testified that the Board inspectors
5 misunderstood him during the September 22, 2019 meeting and disavowed all of the admissions
6 of misconduct that he made at that meeting. The ALJ made findings that the testimony
7 Respondent gave under oath regarding the receiving and passing of test questions to and from
8 other students, was not credible or true.

9 12. On August 13, 2020, the ALJ issued a Proposed Decision to the Board recommending
10 that Respondent's Intern Pharmacist License be revoked and Respondent's application for a
11 pharmacist license be denied. Effective October 15, 2020, the Board adopted the Proposed
12 Decision in full, and ordered that as a condition precedent to reinstatement of his revoked license,
13 or upon the application of a new license, Respondent shall reimburse the Board for its costs of
14 investigation and prosecution in the amount of \$9,173.75.

15 **FIRST CAUSE FOR DENIAL OF APPLICATION**

16 **(Prior Discipline)**

17 13. Respondent's application is subject to denial under Business and Professions Code
18 section 480, subdivision (a)(2), and Business and Professions Code section 4300, subdivision (c),
19 in that Respondent was formally disciplined by the Board based on professional misconduct, as
20 set forth in above, incorporated herein.

21 **SECOND CAUSE FOR DENIAL OF APPLICATION**

22 **(Unprofessional Conduct)**

23 14. Respondent's application is subject to denial under Business and Professions Code
24 section 4300, subdivision (c), in that in 2019, Respondent committed unprofessional conduct
25 when he subverted a license exam, committed dishonest conduct, engaged in examination
26 misconduct, and committed conduct warranting the denial of a license, as set forth in above,
27 incorporated herein.

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Lying Under Oath)**

3 15. Respondent’s application is subject to denial under Business and Professions Code
4 section 4300, subdivision (c), in that Respondent committed unprofessional conduct when he lied
5 under oath at the administrative hearing before an ALJ at the Office of Administrative Hearings,
6 as set forth in above, incorporated herein.

7 **PRAYER**

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

- 10 1. Denying the application of Samuel Jinsuk Yang for a registered pharmacist;
11 2. Taking such other and further action as deemed necessary and proper.

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13 DATED: 2/15/2023

Sodergren,
Anne@DCA  Digitally signed by Sodergren,
Anne@DCA
Date: 2023.02.15 18:55:36 -08'00'

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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