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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
Against:

13 **SAMUEL JINSUK YANG**

14 **Pharmacist License Applicant**

15 Respondent.

Case No. 6883

STATEMENT OF ISSUES

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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, Department of Consumer Affairs.

21 2. On or about May 30, 2019, the Board of Pharmacy, Department of Consumer Affairs
22 received an application for a Pharmacist License from Samuel Jinsuk Yang (Respondent). On or
23 about May 22, 2019, Samuel Jinsuk Yang certified under penalty of perjury to the truthfulness of
24 all statements, answers, and representations in the application. The Board denied the application
25 on November 19, 2019.

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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
3 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 4011 of the Code provides that the Board shall administer and enforce both
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
7 Act [Health & Safety Code, § 11000 et seq.].

8 **STATUTORY PROVISIONS**

9 5. Section 123 of the Code states:

10 It is a misdemeanor for any person to engage in any conduct which subverts or
11 attempts to subvert any licensing examination or the administration of an
examination, including, but not limited to:

12 (a) Conduct which violates the security of the examination materials; removing
13 from the examination room any examination materials without authorization; the
unauthorized reproduction by any means of any portion of the actual licensing
14 examination; aiding by any means the unauthorized reproduction of any portion of the
actual licensing examination; paying or using professional or paid examination-takers
15 for the purpose of reconstructing any portion of the licensing examination; obtaining
examination questions or other examination material, except by specific authorization
16 either before, during, or after an examination; or using or purporting to use any
examination questions or materials which were improperly removed or taken from
17 any examination for the purpose of instructing or preparing any applicant for
examination; or selling, distributing, buying, receiving, or having unauthorized
18 possession of any portion of a future, current, or previously administered licensing
examination.

19 (b) Communicating with any other examinee during the administration of a
licensing examination; copying answers from another examinee or permitting one's
20 answers to be copied by another examinee; having in one's possession during the
administration of the licensing examination any books, equipment, notes, written or
21 printed materials, or data of any kind, other than the examination materials
distributed, or otherwise authorized to be in one's possession during the examination;
22 or impersonating any examinee or having an impersonator take the licensing
examination on one's behalf.

23 Nothing in this section shall preclude prosecution under the authority provided
24 for in any other provision of law.

25 In addition to any other penalties, a person found guilty of violating this
section, shall be liable for the actual damages sustained by the agency administering
26 the examination not to exceed ten thousand dollars (\$10,000) and the costs of
litigation.

27 (c) If any provision of this section or the application thereof to any person or
28 circumstances is held invalid, that invalidity shall not affect other provisions or

1 applications of the section that can be given effect without the invalid provision or
application, and to this end the provisions of this section are severable.

2 6. Section 480 of the Code states, in pertinent part:

3 (a) A board may deny a license regulated by this code on the grounds that the
4 applicant has one of the following:

5 (1) Been convicted of a crime. A conviction within the meaning of this section
6 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
7 Any action that a board is permitted to take following the establishment of a
8 conviction may be taken when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal, or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under the
provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

9 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
substantially benefit himself or herself or another or substantially injury another.

10 (3) (A) Done any act that if done by a licentiate of the business or profession in
11 question, would be grounds for suspension or revocation of license.

12 * * *

13 7. Section 496 of the Code provides that a board may deny, suspend, revoke, or
14 otherwise restrict a license on the ground that an applicant or licensee has violated section 123
15 pertaining to the subversion of licensing examinations.

16 8. Section 584 of the Code provides, in pertinent part, that no person shall violate the
17 security of any examination, as defined in subdivision (a) of section 123.

18 9. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
19 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
20 not be limited to, any of the following:

21 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
22 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.

23 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
24 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.

25 **REGULATORY PROVISIONS**

26 10. California Code of Regulations, title 16, section 1721, states:

27 An applicant for examination as a pharmacist who engages in dishonest conduct during the
28 examination shall not have that examination graded, shall not be approved to take the
examination for three years from the date of the incident, and shall surrender his or her intern

1 license until eligible to take the examination. The applicant may not be issued a pharmacy
2 technician license until the applicant is again eligible to take the examination.

3 11. California Code of Regulations, title 16, section 1723.1, states:

4 Examination questions are confidential. Any applicant for any license issued by the board
5 who removes all or part of any qualifying examination from the examination room or area, or
6 who conveys or exposes all or part of any qualifying examination to any other person may be
7 disqualified as a candidate for a license. The applicant shall not be approved to take the
8 examination for three years from the date of the incident and shall surrender his or her intern
9 license until again eligible to take the examination. The applicant may not be issued a pharmacy
10 technician license until the applicant is again eligible to take the examination.

11 **FACTUAL ALLEGATIONS**

12 12. Respondent took the California Practice Standards and Jurisprudence Examination for
13 Pharmacists (CPJE) on July 25, 2019. Prior to that date, Respondent knowingly obtained a
14 document containing unauthorized reproduction of several questions that had been improperly
15 taken, removed, and/or copied from the CPJE. Respondent utilized that document to prepare for
16 the CPJE, and also shared the document with at least two other individuals preparing for the
17 CPJE. Respondent obtained additional questions improperly taken, removed, and/or copied from
18 the CPJE through conversations and written communications with other individuals who had
19 already taken the exam.

20 **FIRST CAUSE FOR DENIAL OF APPLICATION**

21 (Acts Involving Dishonesty)

22 Respondent's application is subject to denial under Code section 480, subdivision (a)(2), in
23 that Respondent committed acts of dishonesty, fraud, or deceit with the intent to substantially
24 benefit himself, as described above in paragraph 12.

25 **SECOND CAUSE FOR DENIAL OF APPLICATION**

26 (Acts Warranting Suspension or Revocation)

27 Respondent's application is subject to denial under Code sections 480, subdivision
28 (a)(3)(A), by reference to Code section 4301, subdivisions (f) and (o), and California Code of
Regulations, title 16, section(s) 1721 and/or 1723.1, in that Respondent committed acts which if
done by a licensed pharmacist would be grounds for suspension or revocation, as described above
in paragraph 12.

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THIRD CAUSE FOR DENIAL OF APPLICATION

(Subversion of Licensing Examination)

Respondent's application is subject to denial under Code section 496, by reference to sections 123 and 584, in that Respondent subverted or attempted to subvert a licensing examination, as described above in paragraph 12.

PRAYER

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 Samuel Jinsuk Yang for a Pharmacist License;
2. Taking such other and further action as deemed necessary and proper.

DATED: February 18, 2020



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

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