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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 **JAY AMIN**

15 **Pharmacist Applicant**

16 Respondent.

Case No. 7771

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 July 20, 2023, the Board received a Pharmacist Examination for
23 Licensure Application from Jay Amin (Respondent). On or about July 18, 2023, Respondent
24 certified under penalty of perjury to the truthfulness of all statements, answers, and
25 representations in the application. The Board denied the application on February 23, 2024.

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JURISDICTION

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

4. Code section 480 states in part:

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

...

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement. Formal discipline that occurred earlier than seven years preceding the date of application may be grounds for denial of a license only if the formal discipline was for conduct that, if committed in this state by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2, would have constituted an act of sexual abuse, misconduct, or relations with a patient pursuant to Section 726 or sexual exploitation as defined in subdivision (a) of Section 729.

...

5. Code section 4300 states in part:

...

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

- (1) Medical or psychiatric evaluation.
- (2) Continuing medical or psychiatric treatment.
- (3) Restriction of type or circumstances of practice.
- (4) Continuing participation in a board-approved rehabilitation program.

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

2 (6) Random fluid testing for alcohol or drugs.

3 (7) Compliance with laws and regulations governing the practice of pharmacy.

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5 6. Code section 4301 states in part:

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

8 . . .

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

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

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

18 . . .

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

21 . . .

22 (n) The revocation, suspension, or other discipline by another state of a license
23 to practice pharmacy, operate a pharmacy, or do any other act for which a license is
24 required by this chapter that would be grounds for revocation, suspension, or other
25 discipline under this chapter. Any disciplinary action taken by the board pursuant to
26 this section shall be coterminous with action taken by another state, except that the
27 term of any discipline taken by the board may exceed that of another state, consistent
28 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.

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1 **DRUGS**

2 7. Azithromycin is an antibiotic and is a dangerous drug pursuant to Business and
3 Professions Code section 4022.

4 8. Promethazine with codeine syrup, is a controlled substance pursuant to Health and
5 Safety Code section 11058, subdivision (c)(1), and is a dangerous drug pursuant to Business and
6 Professions Code section 4022.

7 9. Xanax is a controlled substance pursuant to Health and Safety Code section 11057,
8 subdivision (d) and is a dangerous drug pursuant to Business and Professions Code section 4022.

9 **FACTUAL ALLEGATIONS**

10 10. On August 17, 2011, the Board issued Pharmacist License No. 65778 to Respondent.
11 On October 6, 2015, in the case entitled, *In the Matter of the Accusation Against Jay Amin*, Board
12 of Pharmacy Case Number 5529, an Accusation was filed against Respondent for unprofessional
13 conduct for dishonest acts, use of controlled substances in a dangerous manner, violating statutes
14 regulating controlled substances, violating laws governing pharmacy, and making and signing a
15 document that falsely represents the facts.

16 11. The circumstances that led to that action are as follows: Respondent was employed as
17 a pharmacist-in-charge (PIC) at CVS from March 2014 through May 2015. CVS investigated a
18 complaint regarding fraudulent promethazine with codeine prescriptions by a pharmacy
19 technician, TW, who worked at the same CVS store as Respondent. TW admitted to obtaining
20 prescriptions for narcotics without seeing or speaking to the alleged prescriber, Dr. KP, a former
21 employer. She admitted to consuming and sharing drugs that she obtained. TW admitted to
22 sharing approximately 20 tablets with Respondent in February and April 2015, stating that
23 Respondent asked her for them because he was experiencing stress. TW also admitted to
24 obtaining a prescription for the controlled substance, promethazine with codeine, after
25 Respondent told her he was ill and asked her to get a prescription for him, even though he was
26 never seen by Dr. KP for that prescription. Respondent admitted to asking TW for help in getting
27 a prescription called into CVS for his cough, that he was never a patient of Dr. KP and that he
28 knew his actions were wrong. Respondent also admitted to writing a prescription for himself for

1 the dangerous drug, azithromycin, because he was not feeling well and did not want to miss work
2 to see a doctor. He stated he wrote the prescription on the “call-in prescription pad,” gave it to a
3 technician to type up, and then filled and verified it himself. Respondent admitted that he wrote
4 that Physician Assistant, CB, authorized the prescription, when in fact, he had not. Respondent
5 also admitted to “borrowing” Xanax, a controlled substance, from TW due to stress, knowing he
6 did not have a prescription for it.

7 12. On December 23, 2015, the Board adopted a Stipulated Surrender of License and
8 Order, wherein Respondent surrendered his pharmacist license and agreed to pay \$3,573.50 prior
9 to the issuance of a new license. The Stipulation further provides that all of the charges and
10 allegations in Accusation Case No. 5529 are deemed to be true, correct, and admitted by
11 Respondent when the Board determines whether to grant or deny a new application for licensure.
12 That Decision and Order became effective January 22, 2016.

13 13. Respondent is also licensed as a pharmacist in Arizona. On or about March 21, 2019,
14 in the action entitled, *In the Matter of Jay Amin, Holder of License No. S021262 As A Licensed*
15 *Pharmacist in the State of Arizona*, Arizona State Board of Pharmacy (Arizona Board) Case No.
16 18-0484, Respondent’s pharmacist license was disciplined pursuant to the Consent Agreement for
17 Civil Penalty, Continuing Education and Audit. The circumstances that led to that action are that
18 on September 7, 2018, Respondent filed an application for license renewal and marked the
19 answer “Yes” to the question asking about compliance with continuing education requirements,
20 thereby attesting that he had completed the required 30 continuing education hours. However, at
21 the time of his application for renewal, Respondent had only completed 21.50 of continuing
22 education hours, therefore, he was short 8.5 hours. The Arizona Board found that Respondent’s
23 conduct constituted unprofessional conduct for failing to comply with the continuing education
24 requirements established by the Board and for knowingly filing an application or renewal that
25 contained false or misleading information. As a result, Respondent was ordered to pay the
26 Arizona Board \$850, complete a total of 45 continuing education hours, and was subject to a
27 mandatory audit of his continuing education requirements.

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1 **FIRST CAUSE FOR DENIAL**

2 **(Unprofessional Conduct - Dishonesty, Fraud, Deceit, or Corruption)**

3 14. Respondent’s application is subject to denial under Code section 4300, subdivision
4 (c) for unprofessional conduct as defined under Code section 4301, subdivision (f), for
5 dishonesty, fraud, deceit or corruption, as set forth in paragraphs 10 through 13, above,
6 incorporated herein.

7 **SECOND CAUSE FOR DENIAL**

8 **(Unprofessional Conduct - Making or Signing a Document that Falsely Represents Facts)**

9 15. Respondent’s application is subject to denial under Code section 4300, subdivision
10 (c) for unprofessional conduct as defined under Code section 4301, subdivision (g), for
11 knowingly making or signing any certificate or other document that falsely represents the
12 existence of a state of facts, as set forth in paragraphs 10 through 13, above, incorporated herein.

13 **THIRD CAUSE FOR DENIAL**

14 **(Unprofessional Conduct – Dangerous Use of Controlled Substance)**

15 16. Respondent’s application is subject to denial under Code section 4300, subdivision
16 (c) for unprofessional conduct as defined under Code section 4301, subdivision (h), for the
17 administration to himself of a controlled substance in a dangerous manner, as set forth in
18 paragraphs 10 through 13, above, incorporated herein.

19 **FOURTH CAUSE FOR DENIAL**

20 **(Unprofessional Conduct – Violation of Statutes Regulating Controlled Substances and
21 Dangerous Drugs)**

22 17. Respondent’s application is subject to denial under Code section 4300, subdivision
23 (c) for unprofessional conduct as defined under Code section 4301, subdivision (j), for violation
24 of statutes regulating controlled substances and dangerous drugs, as set forth in paragraphs 10
25 through 13, above, incorporated herein.

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1 **FIFTH CAUSE FOR DENIAL**

2 **(Unprofessional Conduct – Violation of Laws and Regulations Governing Pharmacy)**

3 18. Respondent’s application is subject to denial under Code section 4300, subdivision
4 (c) for unprofessional conduct as defined under Code section 4301, subdivision (o), for violation,
5 or assisting in or abetting the violation of or conspiring to violate state laws and regulations
6 governing pharmacy, including regulations established by the board or by any other state, as set
7 forth in paragraphs 10 through 13, above, incorporated herein.

8 **SIXTH CAUSE FOR DENIAL**

9 **(Arizona State Board Discipline Against Respondent’s Arizona Pharmacist License)**

10 19. Respondent’s application is subject to denial under Code section 480, subdivision
11 (a)(2) and Code section 4300, subdivision (c) for unprofessional conduct as defined under Code
12 section 4301, subdivision (n), in that Respondent’s pharmacist license was disciplined by the
13 Arizona Board on March 21, 2019, for misconduct that would have been cause for discipline
14 before the Board and that is substantially related to the qualifications, functions, or duties of a
15 pharmacist, as set forth in paragraph 13, above, incorporated herein.

16 **PRAYER**

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

- 19 1. Denying the Pharmacist Examination for Licensure Application from Jay Amin;
20 2. Taking such other and further action as deemed necessary and proper.

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22 DATED: 4/28/2024

Sodergren,
Anne@DCA  Digitally signed by
Sodergren, Anne@DCA
Date: 2024.04.28 17:52:50
-07'00'

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

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