

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

In the Matter of the Statement of Issues  
Against:

**KELESSERY YAH FANNY**

**Pharmacist License Applicant**

Respondent.

Case No. 6618

OAH No. 2019040879

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order for Public Repeval 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 July 25, 2019.

It is so ORDERED on June 25, 2019.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

Victor Law, R.Ph.  
Board President

1 XAVIER BECERRA  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KRISTINA T. JARVIS  
Deputy Attorney General  
4 State Bar No. 258229  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-6088  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11  
12 In the Matter of the Statement of Issues  
Against:

13 **KELESSERY YAH FANNY**  
14 **Pharmacist License Applicant**

15 Respondent.

Case No. 6618

OAH No. 2019040879

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER FOR PUBLIC  
REPROVAL**

**[Bus. & Prof. Code § 495]**

16  
17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board of  
22 Pharmacy (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Xavier Becerra, Attorney General of the State of California, by Kristina T. Jarvis,  
24 Deputy Attorney General.

25 2. Kelessery Yah Fanny (Respondent) is represented in this proceeding by attorney  
26 Jeffrey Kravitz, whose address is: Kravitz & Chan LLP, 1851 Heritage Lane, Suite 128,  
27 Sacramento, California 95815.

28 ///

1 **JURISDICTION**

2 3. On or about March 16, 2018, the Board received an application for a Pharmacist  
3 License from Respondent. The Board denied the application on November 26, 2018. Respondent  
4 timely requested a hearing with respect to the denial.

5 4. Statement of Issues No. 6618 was filed before the Board of Pharmacy (Board),  
6 Department of Consumer Affairs and is currently pending against Respondent. The Statement of  
7 Issues and all other statutorily required documents were properly served on Respondent on April  
8 11, 2019. A copy of Statement of Issues No. 6618 is attached as exhibit A and incorporated  
9 herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in Statement of Issues No. 6618. Respondent has also carefully read,  
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
14 Disciplinary Order for Public Repeval.

15 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Statement of Issues; the right to be represented by  
17 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
18 the right to present evidence and to testify on his own behalf; the right to the issuance of  
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
20 reconsideration and court review of an adverse decision; and all other rights accorded by the  
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24 **CULPABILITY**

25 8. Respondent understands and agrees that the charges and allegations in Statement of  
26 Issues No. 6618, if proven at a hearing, constitute cause for denial of his application for a  
27 Pharmacist License.

28 9. For the purpose of resolving the Statement of Issues without the expense and

1 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
2 establish a factual basis for the cause for denial in the Statement of Issues, and that Respondent  
3 hereby gives up his right to contest those charges.

4 10. Respondent agrees that his application for a Pharmacist License is subject to denial,  
5 and he agrees to be bound by the Disciplinary Order below.

6 **RESERVATION**

7 11. The admissions made by Respondent herein are only for the purposes of this  
8 proceeding, or any other proceedings in which the Board or other professional licensing agency is  
9 involved, and shall not be admissible in any other criminal or civil proceeding.

10 **CONTINGENCY**

11 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent  
12 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may  
13 communicate directly with the Board regarding this stipulation and settlement, without notice to  
14 or participation by Respondent or his counsel. By signing the stipulation, Respondent  
15 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation  
16 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation  
17 as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Repeval  
18 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
19 between the parties, and the Board shall not be disqualified from further action by having  
20 considered this matter.

21 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
22 copies of this Stipulated Settlement and Disciplinary Order for Public Repeval, including PDF  
23 and facsimile signatures thereto, shall have the same force and effect as the originals.

24 14. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by  
25 the parties to be an integrated writing representing the complete, final, and exclusive embodiment  
26 of their agreement. It supersedes any and all prior or contemporaneous agreements,  
27 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated  
28 Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified,

1 supplemented, or otherwise changed except by a writing executed by an authorized representative  
2 of each of the parties.

3 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
4 the Board may, without further notice or formal proceeding, issue and enter the following  
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that the Application for Licensure of Respondent Kelessery  
8 Yah Fanny is hereby granted. Upon successful completion of the licensure examination and all  
9 other licensing requirements, a license shall be issued to Respondent. Said license shall be  
10 publicly reproved by the Board of Pharmacy under Business and Professions Code section 495 in  
11 resolution of Statement of Issues No. 6618, attached as exhibit A.

12 **ACCEPTANCE**

13 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public  
14 Repeval and have fully discussed it with my attorney, Jeffrey Kravitz. I understand the  
15 stipulation and the effect it will have on my application for a Pharmacist License. I enter into this  
16 Stipulated Settlement and Disciplinary Order for Public Repeval voluntarily, knowingly, and  
17 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

18  
19 DATED: 05/08/2019

  
20 \_\_\_\_\_  
21 KELESSERY YAH FANNY  
22 Respondent

23 I have read and fully discussed with Respondent Kelessery Yah Fanny the terms and  
24 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order  
25 for Public Repeval. I approve its form and content.

26 DATED: 5-8-19

  
27 \_\_\_\_\_  
28 JEFFREY KRAVITZ  
Kravitz & Chan, LLP  
Attorney for Respondent

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

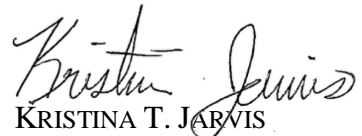
**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: May 9, 2019

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
JANICE K. LACHMAN  
Supervising Deputy Attorney General

  
KRISTINA T. JARVIS  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Statement of Issues No. 6618**

1 XAVIER BECERRA  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KRISTINA T. JARVIS  
Deputy Attorney General  
4 State Bar No. 258229  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-6088  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11  
12 In the Matter of the Statement of Issues  
Against:

Case No. 6618

13 **KELESSERY YAH FANNY**  
14 **Pharmacist License Applicant**

**STATEMENT OF ISSUES**

15 Respondent.  
16

17 **PARTIES**

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

21 **Pharmacist License Applications**

22 2. On or about May 2, 2014, the Board received an application for a Pharmacist License  
23 from Kelessery Yah Fanny (“Respondent”). The Board denied the application on  
24 September 23, 2014. On or about October 9, 2014, Respondent requested a hearing to appeal the  
25 Boards’ decision. On or about February 23, 2015, the Board filed Statement of Issues No. 5339  
26 against Respondent. On or about October 7, 2015, the Statement of Issues was withdrawn  
27 pursuant to Respondent’s request to withdraw his appeal and the denial of his application was  
28 affirmed.



1           3.     On or about March 16, 2018, the Board received an application for a pharmacist  
2 license from Respondent. On or about March 3, 2018, Respondent certified under penalty of  
3 perjury to the truthfulness of all statements, answers, and representations in the application. The  
4 Board denied the application on November 26, 2018.

5                   **Intern Pharmacist Registration**

6           4.     On or about August 14, 2006, the Board issued Original Intern Pharmacist  
7 Registration Number INT 19238 to Respondent. On or about August 31, 2009, Respondent’s  
8 registration expired and has not been renewed. The registration was cancelled by the Board on or  
9 about September 19, 2009.

10                                   **JURISDICTION**

11           5.     Pursuant to Business and Professions Code (“Code”) section 485, subdivision (b), on  
12 or about November 26, 2018, Respondent’s application was denied and he was notified of the  
13 right to a hearing to appeal the denial.

14           6.     On or about December 6, 2018, Respondent requested a hearing to appeal the denial  
15 of his application.

16                                   **STATUTORY AND REGULATORY PROVISIONS**

17           7.     Code section 480 states, in pertinent part:

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

20                                   . . . .

21                   (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.

22                   (B) The board may deny a license pursuant to this subdivision only if the crime  
23 or act is substantially related to the qualifications, functions, or duties of the business  
or profession for which application is made. . . .

24           8.     Code section 4300 provides, in pertinent part, that the board may refuse a license to  
25 any applicant guilty of unprofessional conduct.

26           9.     Section 4301 of the Code states:

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

....

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be 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.

....

(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.

...

(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.

10. Code section 4060 provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.

11. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

12. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess any controlled substance listed in Schedule II (Health and Safety Code section 11055), subdivision (d), or any non-narcotic drug in Schedule III-V, absent a valid prescription.

13. Health and Safety Code section 11550, in pertinent part, makes it unlawful to use or be under the influence of any controlled substance listed in Schedule II (Health and Safety Code section 11055), subdivision (d), paragraph (1) or (2), absent a valid prescription.

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

For the purposes 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.

///  
///

1 **DRUG INFORMATION**

2 15. Amphetamine is a Schedule II controlled substance as designated by Health and  
3 Safety Code section 11055, subdivision (d)(1).

4 16. Methamphetamine is a Schedule II controlled substance as designated by Health and  
5 Safety Code section 11055(d)(2).

6 **FACTUAL BACKGROUND**

7 17. In or around July 2009, Respondent was employed as an Intern Pharmacist at a  
8 Walgreens location in Pittsburg, California (Store #7376; License No. PHY 46653). On or about  
9 July 8, 2009, a random drug test (blood) was performed on Respondent and showed positive  
10 results for the presence of amphetamine and methamphetamine.

11 18. Respondent was scheduled for work next on July 12, 2009, but failed to show.  
12 Respondent failed to show up for any of his scheduled work days over the next ten (10) days and  
13 never returned to work at Walgreens.

14 **CAUSE FOR DENIAL OF APPLICATION**

15 **(Committed Acts Which if Done by a Licentiate)**

16 19. Respondent's application is subject to denial under Code sections 480,  
17 subdivision (a)(3) and 4300, in that Respondent committed acts which if done by a licentiate of  
18 the profession would constitute grounds for discipline under Code section 4301, as follows:

19 a. **Subdivision (h):** Respondent used the controlled substances amphetamine and  
20 methamphetamine to the extent or in a manner as to be dangerous or injurious to himself when he  
21 self-administered the controlled substances amphetamine and methamphetamine and tested  
22 positive while at work, as more particularly set forth above in paragraph 17.

23 b. **Subdivision (j):** Respondent violated Code section 4060 and Health and Safety  
24 Code section 11377 (possession of a controlled substance without a valid prescription), Health  
25 and Safety Code section 11170 (self-administration of a controlled substance), and Health and  
26 Safety Code section 11550 (under the influence of a controlled substance), as more particularly  
27 set forth above in paragraph 17.

28 ///

1 c. **Subdivision (o)**: Respondent violated the Pharmacy Law, as more particularly set  
2 forth above in paragraph 19, subparagraphs (a) and (b).

3 **PRAYER**

4 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board issue a decision:

- 6 1. Denying the application of Kelessery Yah Fanny for a Pharmacist License;
- 7 2. Taking such other and further action as deemed necessary and proper.

8  
9 DATED: April 9, 2019



10 ANNE SODERGREN  
11 Interim Executive Officer  
12 Board of Pharmacy  
13 Department of Consumer Affairs  
14 State of California  
15 *Complainant*