

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

**In the Matter of the Petition for Early Termination of
Probation of:**

DANIEL YOUNG OH, Petitioner

Agency Case No. 5478

OAH No. 2021030401

DECISION

This matter was heard on March 18, 2021, before a quorum of the California State Board of Pharmacy (Board), Department of Consumer Affairs, by videoconference. Administrative Law Judge Coren D. Wong, Office of Administrative Hearings, State of California, presided.

Kristina T. Jarvis, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Petitioner Daniel Young Oh represented himself.

Evidence was received, the record closed, and the matter submitted for written decision on March 18, 2021.

SUMMARY

Petitioner was issued a probationary license on December 1, 2016. Probation is scheduled to expire May 1, 2022. He seeks to terminate probation early. When all the evidence is considered, petitioner established that he no longer poses a threat to public health, safety, or welfare. Therefore, his petition is granted.

FACTUAL FINDINGS

License History

1. On May 16, 2014, petitioner signed an application for a pharmacist license. The Board denied the application on May 1, 2015, and petitioner timely appealed the denial.

2. On June 13, 2015, a former Board Executive Officer signed a Statement of Issues seeking to deny petitioner's application for a pharmacist license on the grounds that he: 1) was convicted of three crimes that are substantially related to the qualifications, functions, or duties of a pharmacist; 2) engaged in dishonest, fraudulent, or deceitful conduct; and 3) engaged in conduct that would constitute grounds for discipline if committed by a licensed pharmacist. The factual basis for the Accusation arose out of petitioner's: 1) April 10, 2015 convictions for driving under the influence of alcohol and driving with a blood alcohol content of 0.08 percent or greater; 2) April 16, 2008 conviction for driving with a blood alcohol content of 0.08 percent or greater; 3) August 14, 2007 conviction for public intoxication; and 4) failure to disclose his 2007 and 2008 convictions on a prior application for an intern pharmacist license.

3. Petitioner signed a stipulated settlement admitting the truth of all allegations in the Statement of Issues. He agreed that cause existed to deny his application, but a five-year probationary license would be issued instead. Conditions of probation included enrolling in the Pharmacist Recovery Program, undergoing random drug screening, and abstaining from the consumption of alcohol and drugs. On March 29, 2016, the Board issued a Decision and Order approving the stipulated settlement.

4. On December 1, 2016, the Board issued petitioner Pharmacist License Number RPH 75995. The license expires November 30, 2022, unless renewed or revoked.

Petition for Early Termination of Probation

5. On January 5, 2020, petitioner signed a Petition for Early Termination of Probation.

6. On March 3, 2021, Lupe Baltazar, an Administrative Case Analyst with the Board, wrote a memo confirming petitioner has complied with all conditions of probation. She explained that probation was tolled because petitioner did not work as a pharmacist for a minimum of 40 hours per month from February 1 through April 3, 2017, and January 30 through May 16, 2018, a total of four months. Probation is currently scheduled to expire May 1, 2022.

Petitioner's Evidence

7. On May 8, 2012, petitioner signed an application for an intern pharmacist registration. The following week, the Board issued him Intern Pharmacist Registration INT 29660. He began working as an intern pharmacist on July 15, 2014, at Rite Aid in Tustin, California. He left that job three months later. He did not work in a pharmacy

again until after his pharmacist license was issued and he began working for Irvine Pharmacy in Irvine, California, on April 8, 2017. He left that position after one of the owners of the pharmacy physically assaulted him and he was hospitalized on January 31, 2018. Petitioner has worked at Blythe Mart Pharmacy in Blythe, California, since April 16, 2018.

8. Petitioner readily admitted at hearing that he is an alcoholic. He first began receiving treatment for alcoholism when he voluntarily enrolled in Maximus on November 29, 2014, while his application for licensure as a pharmacist was pending before the Board. Maximus is a company that provides confidential assessment, referral, and monitoring services for the Pharmacist Recovery Program.

9. A condition of petitioner's participation in Maximus was participating in twice weekly support group meetings, undergoing random drug and alcohol testing approximately four times each month, and attending Alcoholics Anonymous (AA) meetings a minimum of three to four times each week. He attended support group meetings led by Marsha Vanover, PhD, LMFT, a licensed marriage and family therapist located in Newport Beach, California. He had no positive drug or alcohol screenings, and he regularly attended AA meetings.

10. Petitioner was also required to enroll in an inpatient treatment program. On January 6, 2015, he enrolled in The Ranch, an alcohol treatment program that included group sessions, individual and peer counseling groups, individual recovery programs, educational groups, and regular attendance at AA meetings. He successfully completed the program April 5, 2015.

11. Maximus only serves licensed healthcare providers, so petitioner was required to withdraw from the program on May 29, 2015, after the Board denied his

application for a pharmacist license. However, Dr. Vanover also led support group meetings with Pacific Assistance Group (PAG), and petitioner continued attending group meetings, undergoing random drug and alcohol testing, and attending AA meetings through PAG without interruption. He stopped participating in PAG and returned to Maximus on December 23, 2016, after he was issued a pharmacist license. He anticipates graduating from the Pharmacist Recovery Program in April or May 2021.

12. Petitioner moved to Blythe in May 2018,¹ and began attending twice weekly support group meetings led by Kirby Palmer, LCSW. He continues to attend AA meetings four times a week. He has “worked” the 12 steps multiple times, has a sponsor, and has sponsored other recovering alcoholics. He obtained sobriety from alcohol on October 16, 2014, and he intends to continue participating in AA indefinitely to help maintain his sobriety.

13. Petitioner began attending therapy with Curtis C. Rouazoin, PhD, FICPP, a licensed psychologist, on February 14, 2018, to help cope with the trauma of having been assaulted and hospitalized by a former employer. He attended weekly face-to-face therapy sessions until relocating to Blythe three months later. He has continued treatment by telephone, with occasional face-to-face meetings when he is in Orange County.

¹ He commuted from Orange County to Blythe for his first few weeks of employment at Blythe Mart Pharmacy.

Analysis

14. Petitioner's license was placed on probation because he engaged in serious misconduct – he was convicted of three substantially-related crimes, failed to disclose two of those convictions on his application for an intern pharmacist registration, and engaged in conduct which would constitute grounds for disciplining a pharmacist license. However, he readily admits that he is an alcoholic and has more than six years of sobriety. He showed his willingness to atone for his previous misconduct by voluntarily enrolling in Maximus and completing a 90-day inpatient treatment program prior to the Board denying his application for licensure. He demonstrated his commitment to maintaining his sobriety by vowing to continue participating in AA indefinitely.

15. Petitioner's evidence and testimony was credible. He demonstrated insight into his prior misconduct, and showed a change in attitude from that which existed when he engaged in that conduct. In sum, petitioner provided clear and convincing evidence that he no longer presents a threat to public health, safety, or welfare.

LEGAL CONCLUSIONS

Applicable Burden/Standard of Proof

1. Petitioner has the burden of proving his eligibility for early termination of probation, and he must do so by clear and convincing evidence. (*Hippard v. State Bar of California* (1990) 49 Cal.3d 1084, 1091-1092.) "The courts have defined clear and convincing evidence as evidence which is so clear as to leave no substantial doubt and as sufficiently strong to command the unhesitating assent of every reasonable mind.

[Citations.] It has been said that a preponderance calls for probability, while clear and convincing proof demands a high probability [citations]." (*In re Terry D.* (1978) 83 Cal.App.3d 890, 899; italics omitted.)

Applicable Law

2. A pharmacist may petition the Board for early termination of probation after two years have elapsed since the effective date of the disciplinary order. (Bus. & Prof. Code, § 4309, subd. (a)(2).) When deciding a petition, the Board may consider factors such as the petitioner's actions since discipline was imposed, the offenses for which discipline was imposed, and the petitioner's rehabilitation. (Bus. & Prof. Code, §4309, subd. (d)(1), (2) & (4).)

3. The Attorney General must be given notice of any petition filed, and "shall be afforded an opportunity to present either oral or written argument before the" Board. (Gov. Code, § 11522.)

Conclusion

4. Petitioner met his burden of producing clear and convincing evidence of sufficient rehabilitation to justify early termination of probation for the reasons explained in Factual Findings 14 and 15. Therefore, his Petition for Early Termination of Probation is granted.

ORDER

Petitioner Daniel Young Oh's Petition for Early Termination of Probation is GRANTED.

This Decision shall become effective at 5:00 p.m. on July 22, 2021.

It is so ORDERED on June 22, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is written in a cursive style with a large, sweeping initial "S".

Seung W. Oh, Pharm.D.
Board President

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

In the Matter of the Statement of Issues
Against:

Case No. 5478

**DANIEL YOUNG OH
124 Roadrunner
Irvine, CA 92603**

Pharmacist License Applicant

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order 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 April 28, 2016.

It is so ORDERED March 29, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 ANTOINETTE CINCOTTA
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2143
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

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

13 **DANIEL YOUNG OH**
14 **124 Roadrunner**
Irvine, CA 92603

15 **Pharmacist License Applicant**

16 Respondent.

Case No. 5478

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
22 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Kamala D. Harris, Attorney General of the State of California, by Nicole R. Trama, Deputy
24 Attorney General.

25 2. Respondent Daniel Young Oh (Respondent) is represented in this proceeding by
26 attorney Nicholas Chang, Esq., whose address is: 4199 Campus Drive, Ste. H, Irvine, CA 92612.

27 3. On or about June 11, 2014, Respondent filed an application dated May 16, 2014, with
28 the Board to obtain a Pharmacist License.

1 JURISDICTION

2 4. Statement of Issues No. 5478 was filed before the Board, and is currently pending
3 against Respondent. The Statement of Issues and all other statutorily required documents were
4 properly served on Respondent on June 24, 2015.

5 5. A copy of Statement of Issues No. 5478 is attached as Exhibit A, and incorporated
6 herein by reference.

7 ADVISEMENT AND WAIVERS

8 6. Respondent has carefully read, fully discussed with counsel, and understands the
9 charges and allegations in Statement of Issues No. 5478. Respondent has also carefully read,
10 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
11 Disciplinary Order.

12 7. Respondent is fully aware of his legal rights in this matter, including the right to a
13 hearing on the charges and allegations in the Statement of Issues; the right to confront and cross-
14 examine the witnesses against him; the right to present evidence and to testify on his own behalf;
15 the right to the issuance of subpoenas to compel the attendance of witnesses and the production of
16 documents; the right to reconsideration and court review of an adverse Decision; and all other
17 rights accorded by the California Administrative Procedure Act and other applicable laws.

18 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
19 every right set forth above.

20 CULPABILITY

21 9. Respondent admits the truth of each and every charge and allegation in Statement of
22 Issues No. 5478.

23 10. Respondent agrees that his Pharmacist License application is subject to denial, and he
24 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

25 CONTINGENCY

26 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
27 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
28 communicate directly with the Board regarding this stipulation and settlement, without notice to

1 or participation by Respondent or his counsel. By signing the stipulation, Respondent
2 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
3 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
4 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
5 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
6 and the Board shall not be disqualified from further action by having considered this matter.

7 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
8 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
9 signatures thereto, shall have the same force and effect as the originals.

10 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
11 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
12 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
13 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
14 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
15 writing executed by an authorized representative of each of the parties.

16 14. In consideration of the foregoing admissions and stipulations, the parties agree that
17 the Board may, without further notice or formal proceeding, issue and enter the following
18 Disciplinary Order:

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that the application of Respondent Daniel Young Oh for a
21 Pharmacist License is hereby granted. Upon successful completion of the licensure examination
22 and all other licensing requirements, a Pharmacist License shall be issued to Respondent, said
23 license shall be immediately revoked, the order of revocation stayed, and Respondent shall be
24 placed on probation for a period of five (5) years on the following terms and conditions.

25 ///

26 ///

27 ///

28 ///

1 **1. Obey All Laws**

2 Respondent shall obey all state and federal laws and regulations.

3 Respondent shall report any of the following occurrences to the Board, in writing, within
4 seventy-two (72) hours of such occurrence:

- 5 • an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
7 substances laws
- 8 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
9 criminal complaint, information or indictment
- 10 • a conviction of any crime
- 11 • discipline, citation, or other administrative action filed by any state or federal agency
12 which involves Respondent's Pharmacist License or which is related to the practice of
13 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
14 for any drug, device or controlled substance.

15 Failure to timely report such occurrence shall be considered a violation of probation.

16 **2. Report to the Board**

17 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
18 designee. The report shall be made either in person or in writing, as directed. Among other
19 requirements, Respondent shall state in each report under penalty of perjury whether there has
20 been compliance with all the terms and conditions of probation. Failure to submit timely reports
21 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
22 in submission of reports as directed may be added to the total period of probation. Moreover, if
23 the final probation report is not made as directed, probation shall be automatically extended until
24 such time as the final report is made and accepted by the Board.

25 **3. Interview with the Board**

26 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
27 with the Board or its designee, at such intervals and locations as are determined by the Board or
28 its designee. Failure to appear for any scheduled interview without prior notification to Board

1 staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee
2 during the period of probation, shall be considered a violation of probation.

3 **4. Cooperate with Board Staff**

4 Respondent shall cooperate with the Board's inspection program and with the Board's
5 monitoring and investigation of Respondent's compliance with the terms and conditions of his
6 probation. Failure to cooperate shall be considered a violation of probation.

7 **5. Continuing Education**

8 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
9 pharmacist as directed by the Board or its designee.

10 **6. Notice to Employers**

11 During the period of probation, Respondent shall notify all present and prospective
12 employers of the Decision in Case Number 5478 and the terms, conditions and restrictions
13 imposed on Respondent by the Decision, as follows:

14 Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of
15 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
16 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
17 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
18 individual(s) has/have read the Decision in Case Number 5478, and terms and conditions imposed
19 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
20 supervisor(s) submit timely acknowledgment(s) to the Board.

21 If Respondent works for or is employed by or through a pharmacy employment service,
22 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
23 licensed by the Board of the terms and conditions of the Decision in Case Number 5478 in
24 advance of the Respondent commencing work at each licensed entity. A record of this
25 notification must be provided to the Board upon request.

26 Furthermore, within thirty (30) days of the effective date of this Decision, and within fifteen
27 (15) days of Respondent undertaking any new employment by or through a pharmacy
28 employment service, Respondent shall cause his direct supervisor with the pharmacy employment

1 service to report to the Board in writing acknowledging that he has read the Decision in Case
2 Number 5478 and the terms and conditions imposed thereby. It shall be Respondent's
3 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
4 acknowledgment(s) to the Board.

5 Failure to timely notify present or prospective employer(s) or to cause that/those
6 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
7 probation.

8 "Employment" within the meaning of this provision shall include any full-time, part-time,
9 temporary, relief or pharmacy management service as a pharmacist or any position for which a
10 pharmacist license is a requirement or criterion for employment, whether the Respondent is an
11 employee, independent contractor or volunteer.

12 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
13 **Designated Representative-in-Charge, or Serving as a Consultant**

14 During the period of probation, Respondent shall not supervise any intern pharmacist, be
15 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
16 Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
17 unauthorized supervision responsibilities shall be considered a violation of probation.

18 **8. Probation Monitoring Costs**

19 Respondent shall pay any costs associated with probation monitoring as determined by the
20 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
21 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
22 shall be considered a violation of probation.

23 **9. Status of License**

24 Respondent shall, at all times while on probation, maintain an active, current license with
25 the Board, including any period during which suspension or probation is tolled. Failure to
26 maintain an active, current license shall be considered a violation of probation.

27 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
28 during the period of probation, including any extensions thereof due to tolling or otherwise, upon

1 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
2 probation not previously satisfied.

3 **10. License Surrender While on Probation/Suspension**

4 Following the effective date of this Decision, should Respondent cease practice due to
5 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
6 Respondent may tender his license to the Board for surrender. The Board or its designee shall
7 have the discretion whether to grant the request for surrender or take any other action it deems
8 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
9 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
10 record of discipline and shall become a part of the Respondent's license history with the Board.

11 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license
12 to the Board within ten (10) days of notification by the Board that the surrender is accepted.
13 Respondent may not reapply for any license from the Board for three (3) years from the effective
14 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
15 of the date the application for that license is submitted to the Board, including any outstanding
16 costs.

17 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
18 **Employment**

19 Respondent shall notify the Board in writing within ten (10) days of any change of
20 employment. Said notification shall include the reasons for leaving, the address of the new
21 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
22 shall further notify the Board in writing within ten (10) days of a change in name, residence
23 address, mailing address, or phone number.

24 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
25 phone number(s) shall be considered a violation of probation.

26 **12. Tolling of Probation**

27 Except during periods of suspension, Respondent shall, at all times while on probation, be
28 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.

1 Any month during which this minimum is not met shall toll the period of probation, i.e., the
2 period of probation shall be extended by one month for each month during which this minimum is
3 not met. During any such period of tolling of probation, Respondent must nonetheless comply
4 with all terms and conditions of probation.

5 Should Respondent, regardless of residency, for any reason (including vacation) cease
6 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
7 Respondent must notify the Board in writing within ten (10) days of the cessation of practice, and
8 must further notify the Board in writing within ten (10) days of the resumption of practice. Any
9 failure to provide such notification(s) shall be considered a violation of probation.

10 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
11 provisions of this condition for a total period, counting consecutive and non-consecutive months,
12 exceeding thirty-six (36) months.

13 "Cessation of practice" means any calendar month during which Respondent is not
14 practicing as a pharmacist for at least forty (40) hours, as defined by Business and Professions
15 Code section 4000 et seq. "Resumption of practice" means any calendar month during which
16 Respondent is practicing as a pharmacist for at least forty (40) hours as a pharmacist as defined
17 by Business and Professions Code section 4000 et seq.

18 13. Violation of Probation

19 If a Respondent has not complied with any term or condition of probation, the Board shall
20 have continuing jurisdiction over Respondent, and probation shall automatically be extended,
21 until all terms and conditions have been satisfied or the Board has taken other action as deemed
22 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
23 to impose the penalty that was stayed.

24 If Respondent violates probation in any respect, the Board, after giving Respondent notice
25 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
26 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
27 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
28 a petition to revoke probation or an accusation is filed against Respondent during probation, the

1 Board shall have continuing jurisdiction and the period of probation shall be automatically
2 extended until the petition to revoke probation or accusation is heard and decided.

3 **14. Completion of Probation**

4 Upon written notice by the Board or its designee indicating successful completion of
5 probation, Respondent's license will be fully restored.

6 **15. Pharmacists Recovery Program (PRP)**

7 Within thirty (30) days of the license being issued, Respondent shall contact the
8 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
9 successfully participate in, and complete the treatment contract and any subsequent addendums as
10 recommended and provided by the PRP and as approved by the Board or its designee. The costs
11 for PRP participation shall be borne by the Respondent.

12 If Respondent is currently enrolled in the PRP, said participation is now mandatory and as
13 of the effective date of this Decision is no longer considered a self-referral under Business and
14 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete
15 his current contract and any subsequent addendums with the PRP.

16 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
17 the treatment contract and/or any addendums, shall be considered a violation of probation.

18 Probation shall be automatically extended until Respondent successfully completes the
19 PRP. Any person terminated from the PRP program shall be automatically suspended by the
20 Board. Respondent may not resume the practice of pharmacy until notified by the Board in
21 writing.

22 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
23 licensed practitioner as part of a documented medical treatment shall result in the automatic
24 suspension of practice by Respondent and shall be considered a violation of probation.

25 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

26 During suspension, Respondent shall not enter any pharmacy area or any portion of the
27 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
28 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices

1 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
2 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
3 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
4 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
5 and controlled substances. Respondent shall not resume practice until notified by the Board.

6 During suspension, Respondent shall not engage in any activity that requires the
7 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
8 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
9 designated representative for any entity licensed by the Board.

10 Subject to the above restrictions, Respondent may continue to own or hold an interest in
11 any licensed premises in which he holds an interest at the time this Decision becomes effective
12 unless otherwise specified in this order.

13 Failure to comply with this suspension shall be considered a violation of probation.

14 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
15 timely paid to the PRP shall constitute a violation for probation. The Board will collect unpaid
16 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

17 **16. Random Drug Screening**

18 Respondent, at his own expense, shall participate in random testing, including but not
19 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
20 screening program as directed by the Board or its designee. Respondent may be required to
21 participate in testing for the entire probation period and the frequency of testing will be
22 determined by the Board or its designee. At all times, Respondent shall fully cooperate with the
23 Board or its designee, and shall, when directed, submit to such tests and samples for the detection
24 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or
25 its designee may direct. Failure to timely submit to testing as directed shall be considered a
26 violation of probation. Upon request of the Board or its designee, Respondent shall provide
27 documentation from a licensed practitioner that the prescription for a detected drug was
28 legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely

1 provide such documentation shall be considered a violation of probation. Any confirmed positive
2 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a
3 documented medical treatment shall be considered a violation of probation and shall result in the
4 automatic suspension of practice of pharmacy by Respondent. Respondent may not resume the
5 practice of pharmacy until notified by the Board in writing.

6 During suspension, Respondent shall not enter any pharmacy area or any portion of the
7 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
8 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
9 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
10 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
11 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
12 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
13 and controlled substances. Respondent shall not resume practice until notified by the Board.

14 During suspension, Respondent shall not engage in any activity that requires the
15 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
16 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
17 designated representative for any entity licensed by the Board.

18 Subject to the above restrictions, Respondent may continue to own or hold an interest in
19 any licensed premises in which he holds an interest at the time this Decision becomes effective
20 unless otherwise specified in this order.

21 Failure to comply with this suspension shall be considered a violation of probation.

22 **17. Abstain from Drugs and Alcohol Use**

23 Respondent shall completely abstain from the possession or use of alcohol, controlled
24 substances, dangerous drugs and their associated paraphernalia except when the drugs are
25 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
26 request of the Board or its designee, Respondent shall provide documentation from the licensed
27 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
28 treatment of the Respondent. Failure to timely provide such documentation shall be considered a

1 violation of probation. Respondent shall ensure that he is not in the same physical location as
2 individuals who are using illicit substances even if Respondent is not personally ingesting the
3 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
4 not supported by the documentation timely provided, and/or any physical proximity to persons
5 using illicit substances, shall be considered a violation of probation.

6 **18. Prescription Coordination and Monitoring of Prescription Use**

7 Within thirty (30) days of being issued a license, Respondent shall submit to the Board, for
8 its prior approval, the name and qualifications of a single physician, nurse practitioner, physician
9 assistant, or psychiatrist of Respondent's choice, who shall be aware of the Respondent's
10 substance abuse history and who will coordinate and monitor any prescriptions for Respondent
11 for dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner
12 shall be provided with a copy of the Board's Statement of Issues and Decision. A record of this
13 notification must be provided to the Board upon request. Respondent shall sign a release
14 authorizing the practitioner to communicate with the Board about Respondent's treatment(s). The
15 coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the
16 Board on a quarterly basis for the duration of probation regarding Respondent's compliance with
17 this condition. If any substances considered addictive have been prescribed, the report shall
18 identify a program for the time limited use of any such substances. The Board may require that
19 the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a
20 specialist in addictive medicine, or consult a specialist in addictive medicine. Should
21 Respondent, for any reason, cease supervision by the approved practitioner, Respondent shall
22 notify the Board immediately and, within thirty (30) days of ceasing treatment, submit the name
23 of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's
24 choice to the Board or its designee for its prior approval. Failure to timely submit the selected
25 practitioner or replacement practitioner to the Board for approval, or to ensure the required
26 reporting thereby on the quarterly reports, shall be considered a violation of probation.

27 ///

28 ///

1 If at any time an approved practitioner determines that Respondent is unable to practice
2 safely or independently as a pharmacist, the practitioner shall notify the Board immediately by
3 telephone and follow up by written letter within three (3) working days. Upon notification from
4 the Board or its designee of this determination, Respondent shall be automatically suspended and
5 shall not resume practice until notified by the Board that practice may be resumed.

6 During suspension, Respondent shall not enter any pharmacy area or any portion of the
7 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
8 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
9 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
10 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
11 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
12 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
13 and controlled substances. Respondent shall not resume practice until notified by the Board.

14 During suspension, Respondent shall not engage in any activity that requires the
15 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
16 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
17 designated representative for any entity licensed by the Board.

18 Subject to the above restrictions, Respondent may continue to own or hold an interest in
19 any licensed premises in which he holds an interest at the time this Decision becomes effective
20 unless otherwise specified in this order.

21 Failure to comply with this suspension shall be considered a violation of probation.

22 **19. Community Services Program**

23 Within sixty (60) days of being issued a license, Respondent shall submit to the Board or its
24 designee, for prior approval, a community service program in which Respondent shall provide
25 free health-care related services on a regular basis to a community or charitable facility or agency
26 for at least one hundred and twenty-five (125) hours per year for each year of probation. Within
27 thirty (30) days of Board approval thereof, Respondent shall submit documentation to the Board
28 demonstrating commencement of the community service program. A record of this notification

1 must be provided to the Board upon request. Respondent shall report on progress with the
2 community service program in the quarterly reports. Failure to timely submit, commence, or
3 comply with the program shall be considered a violation of probation.

4 **20. Supervised Practice**

5 During the period of probation, Respondent shall practice only under the supervision of a
6 licensed pharmacist not on probation with the Board. Upon and after the effective date of this
7 Decision, Respondent shall not practice pharmacy and his license shall be automatically
8 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,
9 as required by the Board or its designee, either:

10 Continuous – At least 75% of a work week

11 Substantial - At least 50% of a work week

12 Partial - At least 25% of a work week

13 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

14 Within thirty (30) days of the effective date of this Decision, Respondent shall have his
15 supervisor submit notification to the Board in writing stating that the supervisor has read the
16 Decision in case number 5478 and is familiar with the required level of supervision as determined
17 by the Board or its designee. It shall be the Respondent's responsibility to ensure that his
18 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
19 Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
20 acknowledgements to the Board shall be considered a violation of probation.

21 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
22 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
23 acknowledgement(s) to the Board. Respondent shall have his new supervisor, within fifteen (15)
24 days after employment commences, submit notification to the Board in writing stating the direct
25 supervisor and pharmacist-in-charge have read the Decision in case number 5478 and is familiar
26 with the level of supervision as determined by the Board. Respondent shall not practice
27 pharmacy and his license shall be automatically suspended until the Board or its designee
28 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to

1 submit timely acknowledgements to the Board shall be considered a violation of probation.

2 Within ten (10) days of leaving employment, Respondent shall notify the Board in writing.

3 During suspension, Respondent shall not enter any pharmacy area or any portion of the
4 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
5 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
6 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
7 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
8 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
9 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
10 and controlled substances. Respondent shall not resume practice until notified by the Board.

11 During suspension, Respondent shall not engage in any activity that requires the
12 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
13 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
14 designated representative for any entity licensed by the Board.

15 Subject to the above restrictions, Respondent may continue to own or hold an interest in
16 any licensed premises in which he holds an interest at the time this Decision becomes effective
17 unless otherwise specified in this order.

18 Failure to comply with this suspension shall be considered a violation of probation.

19 **21. No Ownership of Licensed Premises**

20 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
21 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
22 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
23 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)
24 days following the effective date of this Decision and shall immediately thereafter provide written
25 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide
26 documentation thereof shall be considered a violation of probation.

27 ///

28 ///

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

22. Criminal Probation/Parole Reports

Respondent shall provide a copy of the conditions of any criminal probation/parole to the Board, in writing, within ten (10) days of the issuance or modification of those conditions. Respondent shall provide the name of his probation/parole officer to the Board, in writing, within ten (10) days after that officer is designated or a replacement for that officer is designated. Respondent shall provide a copy of all criminal probation/parole reports to the Board within ten (10) days after Respondent receives a copy of such a report. Failure to timely make any of the submissions required hereby shall be considered a violation of probation.

23. Ethics Course

Within sixty (60) calendar days of being issued a license, Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its designee. Failure to initiate the course during the first year of probation, and complete it within the second year of probation, is a violation of probation.

Respondent shall submit a certificate of completion to the Board or its designee within five days after completing the course.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Nicholas Chang, Esq. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 2/8/16

Daniel Oh
DANIEL YOUNG OH
Respondent

1 I have read and fully discussed with Respondent Daniel Young Oh the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
3 its form and content.

4 DATED: 2/8/2016


5 _____
6 NICHOLAS CHANG, ESQ.
7 Attorney for Respondent


8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Board of Pharmacy.

11 Dated: 2/19/2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ANTOINETTE CINCOTTA
Supervising Deputy Attorney General


15 NICOLE R. TRAMA
16 Deputy Attorney General
17 Attorneys for Complainant

18
19 SD2015801068
20 81252898.doc
21
22
23
24
25
26
27
28

Exhibit A

Statement of Issues No. 5478

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2143
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Statement of Issues
12 Against:
13 **DANIEL YOUNG OH**
14 **Pharmacist License Applicant**
15 Respondent.

Case No. 5478

STATEMENT OF ISSUES

16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
20 2. On or about June 11, 2014, the Board of Pharmacy, Department of Consumer Affairs
21 received an application for a Pharmacist License from Daniel Young Oh (Respondent). On or
22 about May 16, 2014, Daniel Young Oh certified under penalty of perjury to the truthfulness of all
23 statements, answers, and representations in the application. The Board denied the application on
24 May 1, 2015.

25 JURISDICTION AND STATUTORY AUTHORITY

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

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

4. Section 475 of the Code states:

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

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

(2) Conviction of a crime.

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

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

....

5. Section 480 of the Code states:

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

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a 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.

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

(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.

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

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under

1 subdivision (a) of Section 482.

2 (c) Notwithstanding any other provisions of this code, a person shall not be
3 denied a license solely on the basis of a conviction that has been dismissed
4 pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant
5 who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a,
6 or 1203.41 of the Penal Code shall provide proof of the dismissal.

7 (d) A board may deny a license regulated by this code on the ground that the
8 applicant knowingly made a false statement of fact required to be revealed in the
9 application for the license.

10 6. Section 482 of the Code states:

11 Each board under the provisions of this code shall develop criteria to
12 evaluate the rehabilitation of a person when:

13 (a) Considering the denial of a license by the board under Section 480; or

14 (b) Considering suspension or revocation of a license under Section 490.

15 Each board shall take into account all competent evidence of rehabilitation
16 furnished by the applicant or licensee.

17 7. Section 493 of the Code states:

18 Notwithstanding any other provision of law, in a proceeding conducted by a
19 board within the department pursuant to law to deny an application for a license or
20 to suspend or revoke a license or otherwise take disciplinary action against a
21 person who holds a license, upon the ground that the applicant or the licensee has
22 been convicted of a crime substantially related to the qualifications, functions, and
23 duties of the licensee in question, the record of conviction of the crime shall be
24 conclusive evidence of the fact that the conviction occurred, but only of that fact,
25 and the board may inquire into the circumstances surrounding the commission of
26 the crime in order to fix the degree of discipline or to determine if the conviction is
27 substantially related to the qualifications, functions, and duties of the licensee in
28 question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
'registration.'

8. Section 4300 of the Code states:

.....

(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

1 terms or conditions not contrary to public policy, including, but not limited to, the
2 following:

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

11 9. Section 4301 of the Code states:

12 The board shall take action against any holder of a license who is guilty of
13 unprofessional conduct or whose license has been procured by fraud or
14 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
15 is not limited to, any of the following:

16
17 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
18 deceit, or corruption, whether the act is committed in the course of relations as a
19 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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

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

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

1 (k) The conviction of more than one misdemeanor or any felony involving
2 the use, consumption, or self-administration of any dangerous drug or alcoholic
beverage, or any combination of those substances.

3 (l) The conviction of a crime substantially related to the qualifications,
4 functions, and duties of a licensee under this chapter. The record of conviction of
5 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
6 States Code regulating controlled substances or of a violation of the statutes of this
7 state regulating controlled substances or dangerous drugs shall be conclusive
8 evidence of unprofessional conduct. In all other cases, the record of conviction
9 shall be conclusive evidence only of the fact that the conviction occurred. The
10 board may inquire into the circumstances surrounding the commission of the
11 crime, in order to fix the degree of discipline or, in the case of a conviction not
12 involving controlled substances or dangerous drugs, to determine if the conviction
13 is of an offense substantially related to the qualifications, functions, and duties of a
14 licensee under this chapter. A plea or verdict of guilty or a conviction following a
15 plea of nolo contendere is deemed to be a conviction within the meaning of this
16 provision. The board may take action when the time for appeal has elapsed, or the
17 judgment of conviction has been affirmed on appeal or when an order granting
18 probation is made suspending the imposition of sentence, irrespective of a
19 subsequent order under Section 1203.4 of the Penal Code allowing the person to
20 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
21 the verdict of guilty, or dismissing the accusation, information, or indictment.

22
23 (n) The revocation, suspension, or other discipline by another state of a
24 license to practice pharmacy, operate a pharmacy, or do any other act for which a
25 license is required by this chapter.

26
27 (p) Actions or conduct that would have warranted denial of a license.

28
10. California Code of Regulations, title 16, section 1770, states:

For the purpose 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
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

FIRST CAUSE FOR DENIAL

(April 10, 2015 Criminal Conviction for DUI on August 23, 2014)

11. Respondent's application for a pharmacist license is subject to denial under Code section 480, subdivision (a)(1) in that he was convicted of a crime that is substantially related to the qualifications, duties, and functions of a pharmacist. The circumstances are as follows:

a. On or about April 10, 2015, in a criminal proceeding entitled *People of the State of California v. Daniel Young Oh*, Orange County Superior Court, case number 14HM07469, Respondent was convicted on his plea of guilty to violating Vehicle Code section 23152(a), driving under the influence of alcohol and 23152(b), driving with a blood alcohol content of .08 percent or more, both misdemeanors.

b. As a result of the conviction, Respondent was placed on probation for five years, sentenced to ninety days in custody, ordered to pay fines, required to complete an outpatient program, MADD Victim's Impact Panel, and a 18 month multiple offender alcohol program.

c. The circumstances of the conviction are that on or about August 23, 2014, officers were dispatched to a call of a possible DUI driver. The officers observed a vehicle that matched the description given by dispatch and watched it pull into the parking lot and turns towards a Del Taco restaurant. Officers observed that the vehicle almost collided with the raised curb as it approached the drive-thru. Officers activated their emergency lights, siren, and air horn as the vehicle continued to move forward through the drive-thru. The vehicle did not react or stop to the lights and siren. Once the vehicle came to a stop at the drive-thru menu, the officers made contact with the driver, who was identified as Respondent.

d. Officers noticed a strong smell of alcoholic beverage emitting from Respondent's breath and person, and Respondent had bloodshot and watery eyes. Respondent told officers that he felt "perfectly fine" but he failed the Field Sobriety tests. Respondent's blood alcohol content was .17. Respondent was arrested for driving under the influence. During the search of Respondent's vehicle, officers discovered a container with marijuana. Respondent told officers that he did not have a valid medical recommendation to possess or smoke marijuana.

SECOND CAUSE FOR DISCIPLINE

**(April 16, 2008 Criminal Conviction for Driving with a BAC of .08 percent or more on
January 18, 2008)**

12. Respondent's application for a pharmacist license is subject to denial under Code section 480, subdivision (a)(1) in that he was convicted of a crime that is substantially related to the qualifications, duties, and functions of a pharmacist. The circumstances are as follows:

a. On or about April 16, 2008, in a criminal proceeding entitled *People of the State of California v. Daniel Young Oh*, Yolo County Superior Court, case number 08-959, Respondent was convicted on his plea of no contest to violating Vehicle Code section 23152(b), driving with a blood alcohol content of .08 percent or more.

b. As a result of the conviction, Respondent was sentenced to thirty-six months informal probation, required to pay fines and fees, ordered to complete a nine month program, and sentenced to six days in custody. On or about April 29, 2014, Respondent's conviction was dismissed pursuant to Penal Code section 1203.4/1203.4a.

c. The circumstances of the conviction are that on January 18, 2008, officers of the Davis Police Department observed a vehicle that was double parked in the road. The vehicle then legally parked on the street. Respondent, who was the driver of the vehicle, exited the car and staggered towards a restaurant. The officer observed Respondent bumping into people as he entered the restaurant. The officer contacted Respondent inside the restaurant and observed that Respondent had red water eyes and slurred speech. When questioned, Respondent admitted that he had driven to the restaurant from a bar and that he had consumed two Vodka Redbulls that evening. Respondent failed field sobriety tests and was arrested for suspicion of DUI. His BAC was .22 percent.

THIRD CAUSE FOR DENIAL

(August 14, 2007 Criminal Conviction for Public Intoxication on April 8, 2007)

13. Respondent's application for a pharmacist license is subject to denial under Code section 480, subdivision (a)(1) in that he was convicted of a crime that is substantially related to the qualifications, duties, and functions of a pharmacist. The circumstances are as follows:

1 a. On or about August 14, 2007, in a criminal proceeding entitled *People of the State of*
2 *California v. Daniel Oh*, Yolo County Superior Court, case number 07-2467, Respondent was
3 convicted on his plea of no contest to violating Penal Code section 647(f), public intoxication, a
4 misdemeanor.

5 b. As a result of the conviction, Respondent was placed on informal probation for one
6 year, ordered to pay fines and fees, and sentenced to fifteen days in custody. Respondent's
7 probation was terminated unsuccessfully on April 16, 2008 as a result of a conviction for driving
8 under the influence in Yolo County Superior court case number 08-959. On or about April 29,
9 2014, Respondent's conviction was dismissed pursuant to Penal Code section 1203.4/1203.4a.

10 c. The circumstances of the conviction are that on or about April 8, 2007, officers were
11 dispatched to a report of a "man down" in the street. Upon arrival, officers found Respondent
12 lying on his back with his head in the gutter and towel over his head. Officers called out to
13 Respondent several times and shook his shoulders but Respondent was unresponsive and
14 appeared unconscious. Officers observed an odor of alcohol on Respondent. Officers were able
15 to wake Respondent by rubbing him on the sternum. Upon awaking, Respondent attacked one of
16 the officers by swinging his arms and kicking. Officers struggled to restrain Respondent and had
17 to use a taser to control him. Respondent did not know his age, his address or social security
18 number. Respondent told officers that he was out partying but did not know how much alcohol
19 he drank or how he ended up lying in a gutter with a towel over his head.

20 FOURTH CAUSE FOR DENIAL

21 (Acts Involving Dishonesty, Fraud, or Deceit)

22 14. Respondent's application is subject to denial under section 480, subdivision (a)(2) in
23 that, Respondent engaged in acts involving dishonesty, fraud, or deceit with the intent to
24 substantially benefit himself. The circumstances are as follows:

25 a. On or about May 8, 2012, Respondent signed an application for an Intern
26 Pharmacist License with the Board of Pharmacy. On the application, Respondent falsely marked
27 "no" to the question asking if he had ever been convicted of a crime. Respondent failed to
28 disclose on his application that he was convicted of Vehicle Code section 23152(b), driving with

1 a blood alcohol content of .08 percent or more on April 16, 2008, a misdemeanor. Respondent
2 also failed to disclose that he was convicted of Penal Code section 647(f), public intoxication, a
3 misdemeanor, on August 14, 2007.

4 b. On or about May 17, 2012, the Board of Pharmacy issued Intern Pharmacist
5 Registration Number INT 29660 to Daniel Young Oh. The Board did not learn of the public
6 intoxication conviction on August 14, 2007, until well after it licensed Respondent.

7 **FIFTH CAUSE FOR DENIAL**

8 **(Acts Done by Licentiate)**

9 15. Respondent's application is subject to denial under section 480, subdivision (a)(3) in
10 that, Respondent engaged in acts which, if done by a licentiate, would constitute grounds for a
11 suspension or revocation of licensure. The circumstances are as follows:

12 a. Respondent was convicted of crimes that are substantially related to the
13 qualifications, duties, and functions of a pharmacist, acts which would be grounds for revocation
14 of licensure if done by a licentiate, under sections 490 and 4301, subdivision (l).

15 b. Respondent used alcohol in a dangerous manner, acts which would be grounds
16 for revocation of licensure if done by a licentiate, under section 4301, subdivision (h).

17 c. Respondent has been convicted of three misdemeanors involving the use,
18 consumption or self-administration of alcoholic beverage, acts which would be grounds for
19 revocation of licensure if done by a licentiate, under section 4301, subdivision (k).

20 d. Respondent committed dishonest acts in that he knowingly made a false
21 statement of fact on his application for licensure as a Pharmacist Intern, an act which would be
22 grounds for revocation of licensure if done by a licentiate under section 4301, subdivisions (f)
23 and (g).

24 e. Respondent illegally possessed controlled substances, marijuana, on August 23,
25 2014, in violation of California and United States statutes regulating controlled substances, an act
26 which would be grounds for revocation of licensure if done by a licentiate under section 4301,
27 subdivision (j).

1 AGGRAVATING CIRCUMSTANCES

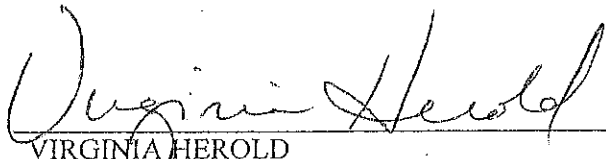
2 16. On or about May 20, 2013, in a prior action against Respondent's Intern Pharmacist
3 Registration Number INT 29660, the Board of Pharmacy issued Citation Number CI 2012 53246
4 for violations of Business and Professions Code section 4301, subdivisions (g) for knowingly
5 making or signing a certificate or other document that falsely represents the existence or
6 nonexistence of facts; subdivision (h) for using alcohol in an dangerous manner; subdivision (l)
7 for sustaining a conviction that is substantially related to the practice of pharmacy; and
8 subdivision (q) for engaging in conduct that subverts or attempts to subvert an investigation of
9 the Board. The Citation ordered Respondent to pay a fine in the amount of \$5,000.00.
10 Respondent complied with the Citation and it is now final.

11 PRAYER

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

- 14 1. Denying the application of Daniel Young Oh for a Pharmacist License;
15 2. Taking such other and further action as deemed necessary and proper.

16
17 DATED: 6/13/15


18 VIRGINIA HEROLD
19 Executive Officer
20 Board of Pharmacy
21 Department of Consumer Affairs
22 State of California
23 Complainant

24
25
26
27
28
SD2015801068
81065039.doc