

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
4 State Bar No. 164015  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2617  
7 Facsimile: (619) 645-2106  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5381

13 **JANE I. OYAMA**  
14 **1467 Stonehaven Court**  
**Riverside, CA 92507**

**ACCUSATION**

15 **Pharmacist License No. RPH 49169**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about January 17, 1997, the Board of Pharmacy issued Pharmacist License  
23 Number RPH 49169 to Jane I. Oyama, who is also known as Jane Inkyun Oyama, Jane Linkyung  
24 Park, Jane Linkyung Chun, Jane Lin Kyung Chun, and Jane I. Chun (Respondent). The  
25 Pharmacist License was in full force and effect at all times relevant to the charges brought herein  
26 and will expire on February 28, 2017, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300(a) of the Code states "Every license issued may be suspended or  
6 revoked."

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
9 operation of law or by order or decision of the board or a court of law, the placement of a  
10 license on a retired status, or the voluntary surrender of a license by a licensee shall not  
11 deprive the board of jurisdiction to commence or proceed with any investigation of, or  
12 action or disciplinary proceeding against, the licensee or to render a decision suspending  
13 or revoking the license.

12 **STATUTORY PROVISIONS**

13 6. Section 482 of the Code states:

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

- 16 (a) Considering the denial of a license by the board under Section 480; or  
17 (b) Considering suspension or revocation of a license under Section 490.

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

20 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
21 revoke a license on the ground that the licensee has been convicted of a crime substantially  
22 related to the qualifications, functions, or duties of the business or profession for which the  
23 license was issued.

24 8. Section 493 of the Code states:

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

1 discipline or to determine if the conviction is substantially related to the qualifications,  
2 functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority," and  
4 "registration."

5 9. Section 4301 of the Code states:

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

10 . . . .

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

14 . . . .

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

20 . . . .

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

24 (l) The conviction of a crime substantially related to the qualifications, functions,  
25 and duties of a licensee under this chapter. The record of conviction of a violation of  
26 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code  
27 regulating controlled substances or of a violation of the statutes of this state regulating  
28 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional  
conduct. In all other cases, the record of conviction shall be conclusive evidence only of  
the fact that the conviction occurred. The board may inquire into the circumstances  
surrounding the commission of the crime, in order to fix the degree of discipline or, in  
the case of a conviction not involving controlled substances or dangerous drugs, to  
determine if the conviction is of an offense substantially related to the qualifications,  
functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a  
conviction following a plea of nolo contendere is deemed to be a conviction within the  
meaning of this provision. The board may take action 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 Section 1203.4 of the Penal Code allowing the person to  
withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the  
verdict of guilty, or dismissing the accusation, information, or indictment.

. . . .

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
2 abetting the violation of or conspiring to violate any provision or term of this chapter or  
3 of the applicable federal and state laws and regulations governing pharmacy, including  
4 regulations established by the board or by any other state or federal regulatory agency.

5 . . . .

### 6 REGULATORY PROVISIONS

7 10. California Code of Regulations, title 16, section 1702(b) states:

8 As a condition of renewal, a pharmacist applicant shall disclose on the renewal  
9 form whether he or she has been convicted, as defined in Section 490 of the Business and  
10 Professions Code, of any violation of the law in this or any other state, the United States,  
11 or other country, omitting traffic infractions under \$500 not involving alcohol, dangerous  
12 drugs, or controlled substances.

13 11. California Code of Regulations, title 16, section 1769 states:

14 . . . .

15 (b) When considering the suspension or revocation of a facility or a personal  
16 License on the ground that the licensee or the registrant has been convicted of a crime,  
17 the board, in evaluating the rehabilitation of such person and his present eligibility for a  
18 license will consider the following criteria:

19 (1) Nature and severity of the act(s) or offense(s).

20 (2) Total criminal record.

21 (3) The time that has elapsed since commission of the act(s) or offense(s).

22 (4) Whether the licensee has complied with all terms of parole, probation,  
23 restitution or any other sanctions lawfully imposed against the licensee.

24 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

26 For the purpose of denial, suspension, or revocation of a personal or facility license  
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions  
28 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.

### 29 COSTS

30 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
31 administrative law judge to direct a licentiate found to have committed a violation or violations of  
32 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

1 enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
2 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
3 may be included in a stipulated settlement.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(February 1, 2013 Criminal Conviction for Disorderly Conduct—Public Intoxication**  
6 **on April 25, 2010)**

7 14. Respondent has subjected her license to discipline under sections 490 and 4301(I) of  
8 the Code in that she was convicted of a crime that is substantially related to the qualifications,  
9 duties, and functions of a pharmacist. The circumstances are as follows:

10 a. On May 10, 2010, in a criminal proceeding entitled *People of the State of*  
11 *California v. Jane Inkyung Oyama*, in San Bernardino County Superior Court, case number  
12 G-136341JO, a complaint was filed against Respondent alleging a violation of Penal Code  
13 section 647(f) – disorderly conduct (public intoxication). Respondent failed to appear at her  
14 arraignment on the charges on July 15, 2010, and a bench warrant was issued for her arrest.

15 b. On February 1, 2013, Respondent was convicted on her plea of guilty to  
16 violating Penal Code section 647(f), a misdemeanor. An additional count of violating Penal Code  
17 section 853.7, failure to appear, was dismissed. Respondent was ordered to pay fees and fines.

18 c. The facts that led to the conviction are that shortly before one in the morning on  
19 April 25, 2010, a patrol officer with the Redlands Police Department responded to two reports of  
20 a disoriented female walking along the Interstate 10 freeway. As the officer approached a  
21 freeway overpass, he saw Respondent, dressed all in black and barefoot, walking along the right  
22 shoulder of the freeway. After nearly impacting Respondent, the officer activated his emergency  
23 lights to alert oncoming traffic, and came to a sudden stop. The officer noted that Respondent  
24 became irate, yelling and flailing her arms. As the officer approached Respondent, he observed  
25 that she was swaying, her eyes were extremely red and watery, her face was flushed, and she had  
26 a moderate odor of an alcoholic beverage on her breath. Respondent told the officer that she had  
27 been drinking at a party in Redlands, and did not understand why she could not walk home to  
28 Yucaipa using the freeway. Respondent provided a breath sample which was analyzed by the

1 preliminary alcohol screening device with a blood alcohol concentration (BAC) of .127 percent.  
2 The officer determined that Respondent was too intoxicated to safely care for herself, and she  
3 was arrested.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(July 30, 2014 Criminal Conviction for Alcohol-Related Reckless Driving on December 30, 2013)**

6 15. Respondent has subjected her license to discipline under sections 490 and 4301(I) of  
7 the Code in that she was convicted of a crime that is substantially related to the qualifications,  
8 duties, and functions of a pharmacist. The circumstances are as follows:

9 a. On July 30, 2014, in a criminal proceeding entitled *People of the State of*  
10 *California v. Jane Inkyung Oyama, aka Jane Linkyung Park, aka Jane Lin Kyung Park, aka Jane*  
11 *Linkyung Chun, aka Jane Kyung Chan*, in San Bernardino County Superior Court, case number  
12 TSB1400475, Respondent was convicted on her plea of guilty to violating Vehicle Code section  
13 23103(a), alcohol-related (“wet”) reckless driving, a misdemeanor count substituted in place of  
14 the original charges of violating Vehicle Code section 23152(a), driving under the influence of  
15 alcohol/drugs, and Vehicle Code section 23152(b), driving with a BAC of .08 percent or more,  
16 pursuant to Vehicle Code section 23013.5.

17 b. As a result of the conviction, Respondent was granted conditional probation for  
18 36 months, and ordered to complete a wet and reckless program, pay fees and fines, and comply  
19 with probation terms.

20 c. The facts that led to the conviction are that shortly before one in the morning on  
21 December 30, 2013, a California Highway Patrol (CHP) officer was dispatched to a vehicle  
22 collision involving a possible impaired driver. Upon arrival, the officer found Respondent sitting  
23 in the driver’s seat of her vehicle. She stated was not sure what happened, but her vehicle would  
24 not drive any more, and she admitted to consuming alcohol prior to the collision. A witness  
25 reported that while stopped at an intersection, he observed Respondent, who was visibly  
26 impaired, being helped to her vehicle by a friend. Despite his warning to Respondent and her  
27 friend, Respondent got into her vehicle and drove away. As the witness followed, he observed  
28 Respondent accelerate to a high rate of speed and enter northbound Interstate 215. Respondent

1 spun out of control and stopped on the freeway facing southbound. Respondent attempted to  
2 drive southbound in the northbound lanes. When confronted by the witness's vehicle, she drove  
3 in reverse, spun out of control again, and collided with the freeway sound wall. The witness was  
4 able to take the keys from the ignition of Respondent's vehicle, and stayed with her until the  
5 arrival of the CHP officer. The officer observed that Respondent's eyes were red and watery, she  
6 was very unsteady on her feet, and her reactions were slow. Respondent was unable to perform  
7 the field sobriety tests as explained and demonstrated by the officer. Respondent was arrested for  
8 driving under the influence. During booking, Respondent provided two breath samples which  
9 were analyzed with a BAC of .187 and .168, respectively.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol)**

12 16. Respondent has subjected her license to discipline under section 4301(h) of the Code  
13 for unprofessional conduct in that on or about April 25, 2010, and December 30, 2013,  
14 Respondent was impaired by alcohol in a manner that was dangerous or injurious to herself, to  
15 any other person, or to the public, as described in paragraphs 14 and 15, above.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Alcohol-Related Criminal Convictions on February 1, 2013 and July 30, 2014)**

18 17. Respondent has subjected her license to discipline under section 4301(k) of the Code  
19 for unprofessional conduct in that she was convicted of more than one misdemeanor alcohol-  
20 related criminal offense, as described in paragraphs 14 and 15, above.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Procuring a Pharmacy License by Dishonesty, Fraud or Misrepresentation)**

23 18. Respondent has subjected her license to discipline under section 4301(f) of the Code  
24 in that she was renewed her pharmacist license using dishonesty, fraud or misrepresentation. The  
25 circumstances are as follows:

26 19. On or about March 20, 2013, the Board received Respondent's Request for Renewal  
27 of California Pharmacist License form. The form asked Respondent if she had been convicted of  
28 any crime in any state, the USA and its territories, military court or a foreign country.

