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

12  
13 In the Matter of the Accusation Against:

Case No. 6768

14 **YUNA KIM**

15 **Intern Pharmacist License No. INT 37174**

**FIRST AMENDED ACCUSATION**

16 Respondent.

17  
18 **PARTIES**

19 1. Anne Sodergren (Complainant) brings this First Amended Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Pharmacy, Department of  
21 Consumer Affairs.

22 2. On or about October 29, 2015 the Board of Pharmacy issued Intern Pharmacist  
23 License No. INT 37174 to Yuna Kim (Respondent). The Intern Pharmacist License was current  
24 and active at all times relevant to the matters described herein and will expire on May 31, 2020.

25 **JURISDICTION**

26 3. This First Amended Accusation 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 (Code) unless otherwise indicated.

1           4.     Section 4011 of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.].

4           5.     Section 4300(a) of the Code provides that every license issued by the Board may be  
5 suspended or revoked.

6           6.     Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or  
7 suspension of a Board-issued license, the placement of a license on a retired status, or the  
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to  
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the  
10 licensee or to render a decision suspending or revoking the license.

#### 11                                   **STATUTORY PROVISIONS**

12           7.     Section 123 of the Code states:

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

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

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

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

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

5 (c) If any provision of this section or the application thereof to any person or  
6 circumstances is held invalid, that invalidity shall not affect other provisions or  
7 applications of the section that can be given effect without the invalid provision or  
8 application, and to this end the provisions of this section are severable.

9 8. Section 480 of the Code states, in pertinent part:

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

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

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

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

23 \* \* \*

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

27 10. Section 4301 of the Code provides, in pertinent part, that the Board shall take action  
28 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but  
not be limited to, any of the following:

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

(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.

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

1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1721, states:

3 An applicant for examination as a pharmacist who engages in dishonest  
4 conduct during the examination shall not have that examination graded, shall not  
5 be approved to take the examination for three years from the date of the incident,  
6 and shall surrender his or her intern license until eligible to take the examination.  
7 The applicant may not be issued a pharmacy technician license until the applicant  
8 is again eligible to take the examination.

9 12. California Code of Regulations, title 16, section 1723.1, states:

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

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

20 For the purpose of denial, suspension, or revocation of a personal or facility  
21 license pursuant to Division 1.5 (commencing with Section 475) of the Business  
22 and Professions Code, a crime or act shall be considered substantially related to  
23 the qualifications, functions or duties of a licensee or registrant if to a substantial  
24 degree it evidences present or potential unfitness of a licensee or registrant to  
25 perform the functions authorized by her license or registration in a manner  
26 consistent with the public health, safety, or welfare.

27 **COST RECOVERY**

28 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
administrative law judge to direct a licentiate found to have committed a violation of the licensing  
act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

**FACTUAL ALLEGATIONS**

15. On or about July 9, 2019, during a pharmacist licensing examination, Respondent:  
engaged in dishonest conduct; violated the security of the examination materials; reproduced  
without authorization portions of the actual licensing examination; subverted or attempted to  
subvert the examination; and/or removed or sought to remove all or part of the examination from  
the examination room or area.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Subversion of Licensing Examination)

3 16. Respondent is subject to disciplinary action under section 496, by reference to section  
4 123, of the Code, in that Respondent subverted or attempted to subvert a licensing examination,  
5 as described above in paragraph 15.

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Dishonest Conduct)

8 17. Respondent is subject to disciplinary action under section 4301, subdivision (f), of the  
9 Code, in that, as described above in paragraph 15, Respondent engaged in dishonest conduct.

10 **THIRD CAUSE FOR DISCIPLINE**

11 (Examination Misconduct)

12 18. Respondent is subject to disciplinary action under section 4301, subdivision (o), of  
13 the Code, by reference to California Code of Regulations, title 16, section(s) 1721 and/or 1723.1,  
14 in that, as described above in paragraph 15, Respondent engaged in dishonest conduct during an  
15 examination and/or removed and/or sought to remove confidential examination materials.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct)

18 19. Respondent is subject to disciplinary action under section 4301 of the Code, in that,  
19 as described above in paragraphs 15-18, Respondent engaged in unprofessional conduct.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 (Conduct Warranting Denial)

22 20. Respondent is subject to disciplinary action under section 4301, subdivision (p), of  
23 the Code, by reference to section 480, subdivision (a)(2) and/or subdivision (a)(3)(A), in that, as  
24 described above in paragraphs 15-19, Respondent engaged in conduct that would have warranted  
25 license denial, namely: dishonest conduct intended to substantially benefit herself or another, or  
26 substantially injure another; and/or an act that if done by a licentiate of the business or profession  
27 in question, would be grounds for suspension or revocation of a license.

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**PRAYER**

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

1. Revoking or suspending Intern Pharmacist License No. INT 37174, issued to Yuna Kim (Respondent);
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as is deemed necessary and proper.

DATED: October 2, 2019



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

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