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

12 In the Matter of the Accusation Against:

Case No. 6869

13 **SAMUEL JINSUK YANG**
14 **4465 Rimcrest Dr.**
Riverside, CA 92505

ACCUSATION

15 **Intern Pharmacist License No. INT 36865**

16 Respondent.

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18 **PARTIES**

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

21 2. On or about September 30, 2015, the Board of Pharmacy issued Intern Pharmacist
22 License Number INT 36865 to Samuel Jinsuk Yang (Respondent). The Intern Pharmacist
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on May 31, 2020, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 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 584 of the Code provides, in pertinent part, that no person shall violate the
28 security of any examination, as defined in subdivision (a) of section 123.

11. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
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.

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

2 **REGULATORY PROVISIONS**

3 12. California Code of Regulations, title 16, section 1721, states:

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

8 13. California Code of Regulations, title 16, section 1723.1, states:

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

16 **COST RECOVERY**

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

20 **FACTUAL ALLEGATIONS**

21 15. Respondent took the California Practice Standards and Jurisprudence Examination for
22 Pharmacists (CPJE) on July 25, 2019. Prior to that date, Respondent knowingly obtained a
23 document containing unauthorized reproduction of several questions that had been improperly
24 taken, removed, and/or copied from the CPJE. Respondent utilized that document to prepare for
25 the CPJE, and also shared the document with at least two other individuals preparing for the
26 CPJE. Respondent obtained additional questions improperly taken, removed, and/or copied from
27 the CPJE through conversations and written communications with other individuals who had
28 already taken the exam.

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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
4 sections 123 and 584 of the Code, in that Respondent subverted or attempted to subvert a
5 licensing examination, as described above in paragraph 14.

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 14, 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 14, Respondent engaged in dishonest conduct during an
15 examination.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 (Conduct Warranting Denial)

18 19. Respondent is subject to disciplinary action under section 4301, subdivision (p), of
19 the Code, by reference to section 480, subdivision (a)(2) and/or subdivision (a)(3)(A), in that, as
20 described above in paragraph 14, Respondent engaged in conduct that would have warranted
21 license denial, namely: dishonest conduct intended to substantially benefit himself or another, or
22 substantially injure another; and/or an act that if done by a licentiate of the business or profession
23 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 Pharmacist License Number INT 36865, issued to Samuel Jinsuk Yang;

2. Ordering Samuel Jinsuk Yang to pay the Board of Pharmacy 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 deemed necessary and proper.

DATED: December 20, 2019



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

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