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

12 In the Matter of the Statement of Issues Against:

Case No. 6714

13 **HONG SUK KIM,**  
14 **AKA RICHARD KIM**

**STATEMENT OF ISSUES**

15 **Pharmacy Technician Registration Applicant**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

22 2. On July 30, 2018, the Board received an application for a Pharmacy Technician  
23 Registration from Hong Suk Kim, also known as Richard Kim (Respondent). On July 17, 2018,  
24 Hong Suk Kim certified under penalty of perjury to the truthfulness of all statements, answers,  
25 and representations in the application. The Board denied the application on January 22, 2019.

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1 **JURISDICTION**

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

5 4. Code section 4300, subdivision (c) states, in pertinent part:  
6 The board may refuse a license to any applicant guilty of unprofessional conduct.

7 **STATUTORY PROVISIONS**

8 5. Code section 475 states, in pertinent part:  
9 (a) Notwithstanding any other provisions of this code, the provisions of  
10 this division shall govern the denial of licenses on the grounds of:

11 . . .

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

15 . . . .

16 6. Code section 480 states, in pertinent part:  
17 (a) A board may deny a license regulated by this code on the grounds that  
18 the applicant has one of the following:

19 . . .

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

22 . . . .

23 7. Code section 482 states:  
24 (a) Each board under the provisions of this code shall develop criteria to  
25 evaluate the rehabilitation of a person when:

26 (1) Considering the denial of a license by the board under Section 480;  
27 or

28 (2) Considering suspension or revocation of a license under Section  
490.

(b) Each board shall take into account all competent evidence of  
rehabilitation furnished by the applicant or licensee.

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8. Code section 4115, subdivision (e) states:

(e) A person shall not act as a pharmacy technician without first being licensed by the board as a pharmacy technician.

9. Code section 4116, subdivision (a) states, in pertinent part:

(a) No person other than a pharmacist, an intern pharmacist, an authorized officer of the law, or a person authorized to prescribe shall be permitted in that area, place, or premises described in the license issued by the board wherein controlled substances or dangerous drugs or dangerous devices are stored, possessed, prepared, manufactured, derived, compounded, dispensed, or repackaged.

10. Code section 4301 states, in pertinent part:

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

...

(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.

...

(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.

**REGULATORY PROVISIONS**

11. California Code of Regulations, title 16, section 1768 states:

(a) Where the board has denied an application for a license, the earliest date on which the applicant may reapply for a license is one year after the effective date of the denial.

(b) All competent evidence of rehabilitation presented will be considered upon a reapplication. The board shall use the criteria listed in section 1769 when considering evidence of rehabilitation.

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1 12. California Code of Regulations, title 16, section 1769 states, in pertinent part:

2 (a) When considering the denial of a facility or personal license under  
3 section 480 of the Business and Professions Code, the board, in evaluating the  
4 rehabilitation of the applicant and his present eligibility for licensing or  
5 registration, will consider the following criteria:

6 (1) The nature and severity of the act(s) or offense(s) under  
7 consideration as grounds for denial.

8 (2) Evidence of any act(s) committed subsequent to the act(s) or  
9 crime(s) under consideration as grounds for denial under section 480 of the  
10 Business and Professions Code.

11 (3) The time that has elapsed since commission of the act(s) or  
12 crime(s) referred to in subdivision (1) or (2).

13 (4) Whether the applicant has complied with any terms of parole,  
14 probation, restitution or any other sanctions lawfully imposed against the  
15 applicant.

16 (5) Evidence, if any, of rehabilitation submitted by the applicant.

17 . . . .

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

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

26 14. California Code of Regulations, title 16, section 1793.2, states:

27 "Nondiscretionary tasks" as used in Business and Professions Code  
28 section 4115, include:

(a) removing the drug or drugs from stock;

(b) counting, pouring, or mixing pharmaceuticals;

(c) placing the product into a container;

(d) affixing the label or labels to the container;

(e) packaging and repackaging.

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1 **FACTUAL ALLEGATIONS**

2 15. On February 17, 2016, the Pharmacy Technician Certification Board (PTCB)<sup>1</sup>  
3 issued Respondent a Certified Pharmacy Technician certification. Since then, although  
4 Respondent had not applied for licensure as a pharmacy technician in California, he had been  
5 working as a pharmacy technician for one to two days a week.

6 16. On July 17, 2018, a Board inspector conducted a routine inspection on  
7 Respondent’s employer, Family Care Pharmacy (PHY 55926), in Buena Park, California. During  
8 the inspection, the Board inspector observed Respondent pull drugs from pharmacy shelves for  
9 filling and counting, pour and label them, and initiated the prescription label. Respondent was  
10 not wearing any type of identification name badge. When asked for his California technician  
11 license number, Respondent provided his PTCB certification.

12 17. On July 30, 2018, the Board received an application for a Pharmacy Technician  
13 Registration from Respondent.

14 **FIRST CAUSE FOR DENIAL OF APPLICATION**

15 **(Act If Done By Licentiate – Violation of State Statute Regulating Controlled Substances)**

16 18. Respondent’s application for a Pharmacy Technician Registration is subject to  
17 denial under Code section 480, subdivision (a)(3)(A), in that on and between February 17, 2016,  
18 and July 17, 2018, as detailed in paragraphs 15-17, above, he violated Code section 4115,  
19 subdivision (e), a pharmacy law of the State of California. Respondent acted as a pharmacy  
20 technician without first being licensed by the Board as a pharmacy technician, in violation of the  
21 pharmacy law regulating controlled substances and dangerous drugs, which would be a ground  
22 for discipline for a registered pharmacy technician under Code section 4301, subdivision (j).

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25 <sup>1</sup> PTCB was established in 1995 by the [American Pharmacists Association](#); [American](#)  
26 [Society of Health-System Pharmacists](#); [Illinois Council of Health-System Pharmacists](#);  
27 and [Michigan Pharmacists Association](#); and joined by the [National Association of Boards of](#)  
28 [Pharmacy](#) in 2001. PTCB advocates for a single national standard for pharmacy technician  
certification that is recognized and supported by the profession. Establishing a national standard  
for pharmacy technician certification is consistent with the approach used by other health  
professions, including the pharmacist licensure process.

1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Act If Done By Licentiate –Violation of State Laws and Regulations Governing Pharmacy)**

3 19. Respondent’s application for a Pharmacy Technician Registration is subject to  
4 denial under Code section 480, subdivision (a)(3)(A), in that on and between February 17, 2016,  
5 and July 17, 2018, as detailed in paragraphs 15-17, above, he violated Code section 4115,  
6 subdivision (e), a pharmacy law of the State of California. Respondent acted as a pharmacy  
7 technician without first being licensed by the Board as a pharmacy technician, in violation of the  
8 pharmacy law regulating controlled substances and dangerous drugs, which would be a ground  
9 for discipline for a registered pharmacy technician under Code section 4301, subdivision (o).

10 **PRAYER**

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

- 13 1. Denying the application of Hong Suk Kim, also known as Richard Kim for a  
14 Pharmacy Technician Registration;  
15 2. Taking such other and further action as deemed necessary and proper.

16  
17  
18 DATED: September 12, 2019



19 ANNE SODERGREN  
20 Interim Executive Officer  
21 Board of Pharmacy  
22 Department of Consumer Affairs  
23 State of California  
24 *Complainant*

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