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

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

13 **SO HYUNG KIM**

14 **Intern Pharmacist License Applicant**

15 **Respondent.**  
16

Case No. 6916

**STATEMENT OF ISSUES**

17  
18 **PARTIES**

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

21 2. On or about July 26, 2019, the Board of Pharmacy, Department of Consumer Affairs  
22 (Board) received an intern pharmacist license application from So Hyung Kim (Respondent).  
23 Respondent had certified under penalty of perjury to the truthfulness of all statements, answers,  
24 and representations in the application on or about July 22, 2019. The Board denied the intern  
25 pharmacist license application on or about February 4, 2020. On or about February 20, 2020, the  
26 Board received a request for an appeal.

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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. Section 118, subdivision (a), of the Code provides that the withdrawal of an  
6 application for a license after it has been filed with a board in the department shall not, unless the  
7 board has consented in writing to such withdrawal, deprive the board of its authority to institute  
8 or continue a proceeding against the applicant for the denial of the license upon any ground  
9 provided by law or to enter an order denying the license upon any such ground.

10 5. Section 4300 of the Code states, in relevant part, that the board may refuse a license  
11 to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a  
12 probationary license to any applicant for a license who is guilty of unprofessional conduct and  
13 who has met all other requirements for licensure.

14 **STATUTORY PROVISIONS**

15 6. Section 480 of the Code states, in pertinent part:

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

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

24 . . .

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

27 7. Section 4301 of the Code states, in pertinent part:  
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1           “The board shall take action against any holder of a license who is guilty of unprofessional  
2 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is  
3 not limited to, any of the following:

4           . . .

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

10          . . .

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

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**FACTUAL BACKGROUND**

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2           8.    On or about October 28, 2019, in a criminal matter entitled *The People of the State*  
3 *of California v. So Hyung Kim*, in the Superior Court of California, County of Orange, Case  
4 Number 19NM06423, Respondent pled guilty and was convicted of wet reckless driving. (Veh.  
5 Code, §§ 23103 per 23103.5.) Respondent was sentenced to 36 months’ probation and ordered to  
6 serve one day in jail, attend and complete a three-month Drinking Driver Program, attend and  
7 complete Victim Impact counseling, submit to alcohol detection tests as requested by a peace  
8 officer, abstain from driving with any measurable amount of alcohol in her system, abstain from  
9 drinking alcohol beverages to excess, abstain from driving any motor vehicle unless lawfully  
10 licensed and insured, use true name and date of birth at all time, carry valid government issued  
11 identification card at all time, and pay court fines and fees. The circumstances supporting  
12 Respondent’s conviction are set forth below.

13           9.    On or about April 28, 2019, at approximately 3:09 a.m., an officer conducted an  
14 enforcement stop on Respondent’s vehicle after observing her swerving and straddling lane lines.  
15 Upon contact with Respondent, the officer requested Respondent’s license, registration, and proof  
16 of insurance. Respondent provided the officer with her registration, but related that her license  
17 was in her cell phone case and she was unsure of the location of her phone. The officer observed  
18 that Respondent’s phone was mounted directly in front of Respondent with the GPS turned on.  
19 When the officer pointed this out, Respondent retrieved her license. While speaking with  
20 Respondent, the officer could smell a strong odor of alcohol emitting from her breath and she had  
21 an unsteady gait. Respondent admitted to having consumed two glasses of champagne prior to  
22 driving. The officer administered a series of field sobriety tests to which Respondent was unable  
23 to perform as explained and demonstrated. The officer arrested Respondent for driving under the  
24 influence of alcohol. Respondent submitted to a chemical blood test and her blood alcohol  
25 content registered at .20 percent.

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**FIRST CAUSE FOR DENIAL OF APPLICATION**  
**(Conviction of Substantially Related Crime)**

10. Respondent has subjected her intern pharmacist application to denial because she was convicted of a crime substantially related to qualifications, functions, and duties of an intern pharmacist or pharmacist (Bus. & Prof. Code, § 480, subd. (a)(1)). The circumstances are described in paragraphs 8 and 9, above.

**SECOND CAUSE FOR DENIAL OF APPLICATION**  
**(Acts That Would Be Grounds for Discipline if Done by Licensee: Unprofessional Conduct)**

11. Respondent has subjected her intern pharmacist application to denial because she committed acts that, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license. (Bus. & Prof. Code, § 480, subd. (a)(3)(A).) The acts described in paragraphs 8 and 9, above, if committed by a licensed intern pharmacist or licensed pharmacist, would subject the licensee to discipline for unprofessional conduct because the acts involved the dangerous use of alcohol (Bus. & Prof. Code, § 4301, subd. (h)), and/or because the acts involved the commission of a crime substantially related to the qualifications, functions, or duties of the licensee (Bus. & Prof. Code, § 4301, subd. (l)).

**PRAYER**

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

1. Denying the application of So Hyung Kim for an intern pharmacist license;
2. Taking such other and further action as deemed necessary and proper.

DATED: March 26, 2020



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

OK2020900123