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

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

Case No. 7230

14 **AON PHARMACY, LLC; VIPUL**
15 **MANILAL PATEL**

STATEMENT OF ISSUES

16 **Nonresident Pharmacy License Applicant**

17 Respondent.

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21 **PARTIES**

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

25 2. On or about February 8, 2021, the Board of Pharmacy, Department of Consumer
26 Affairs received an application for a Nonresident Pharmacy License from AON Pharmacy, LLC;
27 Vipul Manilal Patel (Respondent). On or about January 20, 2021, Vipul Manilal Patel certified
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1 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
2 application. The Board denied the application on October 29, 2021.

3 JURISDICTION

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

7 4. Code section 4300 states:

8 (a) Every license issued may be suspended or revoked.

9 (b) The board shall discipline the holder of any license issued by the board, whose
10 default has been entered or whose case has been heard by the board and found guilty,
by any of the following methods:

11 (1) Suspending judgment.

12 (2) Placing him or her upon probation.

13 (3) Suspending his or her right to practice for a period not exceeding one year.

14 (4) Revoking his or her license.

15 (5) Taking any other action in relation to disciplining him or her as the board in
16 its discretion may deem proper.

17 (c) The board may refuse a license to any applicant guilty of unprofessional conduct.
The board may, in its sole discretion, issue a probationary license to any applicant for
18 a license who is guilty of unprofessional conduct and who has met all other
requirements for licensure. The board may issue the license subject to any terms or
19 conditions not contrary to public policy, including, but not limited to, the following:

20 (1) Medical or psychiatric evaluation.

21 (2) Continuing medical or psychiatric treatment.

22 (3) Restriction of type or circumstances of practice.

23 (4) Continuing participation in a board-approved rehabilitation program.

24 (5) Abstention from the use of alcohol or drugs.

25 (6) Random fluid testing for alcohol or drugs.

26 (7) Compliance with laws and regulations governing the practice of pharmacy.

27 (d) The board may initiate disciplinary proceedings to revoke or suspend any
probationary certificate of licensure for any violation of the terms and conditions of
28 probation. Upon satisfactory completion of probation, the board shall convert the
probationary certificate to a regular certificate, free of conditions.

1 (e) The proceedings under this article shall be conducted in accordance with Chapter
2 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code,
3 and the board shall have all the powers granted therein. The action shall be final,
4 except that the propriety of the action is subject to review by the superior court
5 pursuant to Section 1094.5 of the Code of Civil Procedure.

6 STATUTORY PROVISIONS

7 5. Code section 4040 states, in pertinent part:

8 (a) "Prescription" means an oral, written, or electronic transmission order
9 that is both of the following:

10 (1) Given individually for the person or persons for whom ordered that
11 includes all of the following:

12 (A) The name or names and address of the patient or patients.

13 (B) The name and quantity of the drug or device prescribed and the
14 directions for use.

15 (C) The date of issue.

16 (D) Either rubber stamped, typed, or printed by hand or typeset, the name,
17 address, and telephone number of the prescriber, his or her license classification,
18 and his or her federal registry number, if a controlled substance is prescribed.

19 (E) A legible, clear notice of the condition or purpose for which the drug is
20 being prescribed, if requested by the patient or patients.

21 (F) If in writing, signed by the prescriber issuing the order, or the certified
22 nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who
23 issues a drug order pursuant to Section 2746.51 , 2836.1 , 3502.1 , or 3640.5 ,
24 respectively, or the pharmacist who issues a drug order pursuant to Section 4052.1,
25 4052.2 , or 4052.6.

26 (2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or
27 naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued
28 pursuant to Section 2746.51 , 2836.1 , 3502.1 , or 3460.5, by a certified nurse-
midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in
this state, or pursuant to Section 4052.1 , 4052.2 , or 4052.6 by a pharmacist
licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a
dangerous drug, except for any Schedule II controlled substance, that contains at
least the name and signature of the prescriber, the name and address of the patient
in a manner consistent with paragraph (2) of subdivision (a) of Section 11164 of
the Health and Safety Code , the name and quantity of the drug prescribed,
directions for use, and the date of issue may be treated as a prescription by the
dispensing pharmacist as long as any additional information required by

1 subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict
2 between this subdivision and Section 11164 of the Health and Safety Code ,
3 Section 11164 of the Health and Safety Code shall prevail.

4 (c) “Electronic transmission prescription” includes both image and data
5 prescriptions. “Electronic image transmission prescription” means any
6 prescription order for which a facsimile of the order is received by a pharmacy
7 from a licensed prescriber. “Electronic data transmission prescription” means any
8 prescription order, other than an electronic image transmission prescription, that is
9 electronically transmitted from a licensed prescriber to a pharmacy.

10 (d) The use of commonly used abbreviations shall not invalidate an
11 otherwise valid prescription.

12 6. Code section 4111 states, in pertinent part:

13 (a) Except as otherwise provided in subdivision (b), (d), or (e), the board shall not
14 issue or renew a license to conduct a pharmacy to any of the following:

15 (1) A person or persons authorized to prescribe or write a prescription, as
16 specified in Section 4040, in the State of California.

17 (2) A person or persons with whom a person or persons specified in paragraph (1)
18 shares a community or other financial interest in the permit sought.

19 (3) Any corporation that is controlled by, or in which 10 percent or more of the
20 stock is owned by a person or persons prohibited from pharmacy ownership by
21 paragraph (1) or (2).

22 ...

23 (c) The board may require any information the board deems is reasonably
24 necessary for the enforcement of this section.

25 ...

26 7. Code section 4300 states, in pertinent part, that the board may refuse a license to any
27 applicant guilty of unprofessional conduct.

28 8. 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 issued by mistake. Unprofessional
conduct shall include, but is not 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.

1
2 (g) Knowingly making or signing any certificate or other document that falsely
represents the existence or nonexistence of a state of facts.

3 ...

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

7 ...

8 9. Code section 4302 states:

9 The board may deny, suspend, or revoke any license where conditions exist in
10 relation to any person holding 10 percent or more of the ownership interest or where
11 conditions exist in relation to any officer, director, or other person with management
or control of the license that would constitute grounds for disciplinary action against a
licensee.

12 10. Code section 4303, subdivision (b), states:

13 The board may cancel, deny, revoke, or suspend a nonresident pharmacy registration,
14 issue a citation or letter of admonishment to a nonresident pharmacy, or take any
other action against a nonresident pharmacy that the board may take against a resident
15 pharmacy license, on any of the same grounds upon which such action might be taken
against a resident pharmacy, provided that the grounds for the action are also grounds
16 for action in the state in which the nonresident pharmacy is permanently located.

17 11. Code section 4307, subdivision (a), states:

18 Any person who has been denied a license or whose license has been revoked or is
19 under suspension, or who has failed to renew his or her license while it was under
suspension, or who has been a manager, administrator, owner, member, officer,
20 director, associate, or partner of any partnership, corporation, firm, or association
whose application for a license has been denied or revoked, is under suspension or
has been placed on probation, and while acting as the manager, administrator,
21 owner, member, officer, director, associate, or partner had knowledge of or
knowingly participated in any conduct for which the license was denied, revoked,
22 suspended, or placed on probation, shall be prohibited from serving as a manager,
administrator, owner, member, officer, director, associate, or partner of a licensee
23 as follows:

24 (1) Where a probationary license is issued or where an existing license is placed
on probation, this prohibition shall remain in effect for a period not to exceed five
25 years.

26 (2) Where the license is denied or revoked, the prohibition shall continue until the
27 license is issued or reinstated.

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1 **FACTUAL ALLEGATIONS**

2 12. On or about February 8, 2021, Respondent submitted the Certification of Personnel of
3 Dr. Vipul Patel to the Board along with its application. The affidavit included the following
4 question “Are you currently licensed as a physician, podiatrist, dentist, optometrist in any state,
5 territory, foreign county, or other jurisdiction, please provide the following information” Vipul
6 Patel answered “yes,” and disclosed his medical license from the state of Florida, and then signed
7 the certification affidavit under penalty of perjury that all information provided in the affidavit
8 was true, correct, and complete. However, Respondent failed to disclose that at that time Dr.
9 Vipul Patel also held an active medical license in California, Physician and Surgeon License No.
10 C167490.

11 **FIRST CAUSE FOR DENIAL OF APPLICATION**

12 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

13 13. Respondent’s permit application is subject to denial under Code section 4300, in
14 conjunction with Code section 4301, subdivision (f), in that Respondent committed acts involving
15 moral turpitude, dishonesty, fraud, deceit, or corruption , as follows:

16 a. Respondent failed to disclose Dr. Vipul Patel’s California Physician and
17 Surgeon License No. C167490 in the original application submitted to the Board. On or about
18 February 8, 2021, Respondent’s California Physician Surgeon License No. C167490 was active.

19 **SECOND CAUSE FOR DENIAL OF APPLICATION**

20 (Signing Documents Falsely Representing Facts)

21 14. Respondent’s permit application is subject to denial under Code section 4300, in
22 conjunction with Code section 4301, subdivision (g), in that Respondent knowingly made or
23 signed the original application submitted to the Board that falsely represented the nonexistence of
24 a state of facts, as set forth in paragraphs 12 through 13, above.

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1 **THIRD CAUSE FOR DENIAL**

2 (Violation of Laws Governing Pharmacy)

3 15. Respondent’s permit application is subject to denial under Code section 4300, in
4 conjunction with Code sections 4301, subdivision (o), and 4111, subdivisions (a)(1) and (3), in
5 that it cannot have a license to conduct a pharmacy due to Dr. Vipul Patel being a person
6 authorized to prescribe or write a prescription, as specified in Code section 4040 and Health and
7 Safety Code Section

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9 **PRAYER**

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

- 12 1. Denying the application of AON Pharmacy, LLC; Vipul Manilal Patel for a
13 Nonresident Pharmacy License;
14 2. Taking such other and further action as deemed necessary and proper.

15
16 DATED: 5/4/2022

Signature on File

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

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