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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues
Against:

JOSHUA KONADU-DARKO

Intern Pharmacist License Applicant

Respondent.

Case No. 6750

OAH No. 2019110670

DEFAULT DECISION AND ORDER

[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about September 26, 2019, Complainant Anne Sodergren, in her official capacity as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Statement of Issues No. 6750 against Joshua Konadu-Darko (Respondent) before the Board of Pharmacy.

2. On or about October 30, 2018, Respondent filed an application dated October 22, 2018, with the Board of Pharmacy to obtain an Intern Pharmacist License.

3. On or about May 24, 2019, the Board issued a letter denying Respondent's application for an Intern Pharmacist License. On or about June 3, 2019, Respondent appealed the Board's denial of his application and requested a hearing.

4. On or about October 21, 2019, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Statement of Issues No. 6750, Statement to

1 Respondent, Notice of Defense, Request for Discovery, Government Code sections 11507.5,
2 11507.6, and 11507.7, and Disciplinary Guidelines to Respondent's address on the application
3 form, which was and is:

4 3330 E. Foothill Blvd, Apt. 243
5 Pasadena, California 91107.

6 A copy of the Statement of Issues is attached as exhibit A, and is incorporated herein by
7 reference.

8 5. Service of the Statement of Issues was effective as a matter of law under the
9 provisions of Government Code section 11505, subdivision (c).

10 6. On or about June 3, 2019, Respondent appealed the denial of his application and
11 requested a hearing in this action. A Notice of Hearing was served by mail at Respondent's
12 address on the application and it informed him that an administrative hearing in this matter was
13 scheduled for March 2, 2020.

14 7. The matter was called for hearing at the date, time and location set forth in the Notice
15 of Hearing. The assigned Administrative Law Judge found that the service of the Notice of
16 Hearing on Respondent was proper. There was no appearance by or on behalf of Respondent. A
17 default was declared and on motion of counsel for Complainant, the matter was remanded to the
18 Board under Government Code section 11520.

19 8. Government Code section 11506(c) states, in pertinent part:

20 (c) The respondent shall be entitled to a hearing on the merits if the respondent
21 files a notice of defense . . . and the notice shall be deemed a specific denial of all
22 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
23 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
24 discretion may nevertheless grant a hearing.

25 9. California Government Code section 11520(a) states, in pertinent part:

26 (a) If the respondent either fails to file a notice of defense . . . or to appear at
27 the hearing, the agency may take action based upon the respondent's express
28 admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent

10 Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing based upon the

1 allegation set forth in the Statement of Issues and Respondent's failure to establish entitlement to
2 issuance of a license.

3 **DETERMINATION OF ISSUES**

4 1. Based on the foregoing findings of fact, Respondent Joshua Konadu-Darko has
5 subjected his application for an Intern Pharmacist License to be denied.

6 2. Service of Statement of Issues No. 6750 and related documents was proper and in
7 accordance with the law.

8 3. The agency has jurisdiction to adjudicate this case by default.

9 4. The Board of Pharmacy is authorized to deny Respondent's application for licensure
10 based upon the following violations alleged in the Statement of Issues:

11 a. First Cause For Denial Of Application - Conviction of a Substantially Related Crime.

12 Respondent's application is subject to denial under section 480, subdivision (a)(1), in that
13 Respondent was convicted of a substantially related crime. On or about July 14, 2017, after
14 pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating
15 Vehicle Code section 23109, subdivision (c) [exhibition of speed] in the criminal proceeding
16 entitled *The People of the State of California v. Joshua Darko* (Super. Ct. L.A. County, 2017, No.
17 6MN00470).

18 b. Second Cause For Denial Of Application - Knowingly Made a False Statement of
19 Fact.

20 Respondent's application is subject to denial under section 480, subdivision (d), in that on
21 or about October 22, 2018, Respondent knowingly made a false statement of fact required to be
22 revealed in his application when he failed to disclose his conviction.

23 c. Third Cause For Denial Of Application - Acts Warranting Denial Of Licensure.

24 Respondent's application is subject to denial under sections 4301, subdivision (p) and 480,
25 subdivisions (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a
26 licentiate of the business and profession, would be grounds for suspension or revocation of his
27 license in that Respondent was convicted of a crime substantially related to the qualifications,
28 functions, or duties of an intern pharmacist which to a substantial degree evidences his present or

1 potential unfitness to perform the functions authorized by his license in a manner consistent with
2 the public health, safety, or welfare, in violation of sections 4031, subdivision (l), and 490, in
3 conjunction with California Code of Regulations, title 16, section 1770.

4 **ORDER**


5 IT IS SO ORDERED that the application of Respondent Joshua Konadu-Darko is hereby
6 denied.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
8 written motion requesting that the Decision be vacated and stating the grounds relied on within
9 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
10 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

11
12 This Decision shall become effective on June 18, 2020 at 5:00 p.m.

13 It is so ORDERED on May 19, 2020.

14 BOARD OF PHARMACY
15 DEPARTMENT OF CONSUMER AFFAIRS
16 STATE OF CALIFORNIA

17 By  _____

18 Greg Lippe
19 Board President

20 LA2019502319
21 54215509_2.DOCX

22 Attachment:

23 Exhibit A: Statement of Issues No. 6750

24 Exhibit B: Office of Administrative Hearings Findings and Declaration of Default; Order of
25 Remand

Exhibit A

Statement of Issues No. 6750

1 XAVIER BECERRA
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2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 THOMAS L. RINALDI
Supervising Deputy Attorney General
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5 Los Angeles, CA 90013
Telephone: (213) 269-6310
6 Facsimile: (916) 731-2126

7 *Attorneys for Complainant*

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

13 In the Matter of the Statement of Issues
Against:

Case No. 6750

14 **JOSHUA KONADU-DARKO**

STATEMENT OF ISSUES

15 Intern Pharmacist License Applicant

16 Respondent.

17
18
19 **PARTIES**

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

23 2. On or about October 30, 2018, the Board received an application for an Intern
24 Pharmacist License from Joshua Konadu-Darko (Respondent). On or about October 22, 2018,
25 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on May 24, 2019.

27 ///

28 ///

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 unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 states, in pertinent part:

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

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

13
14 (3) (A) Done any act that if done by a licentiate of the business or profession in
question, would be grounds for suspension or revocation of license.

15 (B) The board may deny a license pursuant to this subdivision only if the crime
16 or act is substantially related to the qualifications, functions, or duties of the business
or profession for which application is made.

17 (b) Notwithstanding any other provision of this code, a person shall not be
18 denied a license solely on the basis that he or she has been convicted of a felony if he
or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing
with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
19 convicted of a misdemeanor if he or she has met all applicable requirements of the
criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
20 person when considering the denial of a license under subdivision (a) of Section 482.

21 (c) Notwithstanding any other provisions of this code, a person shall not be
22 denied a license solely on the basis of a conviction that has been dismissed pursuant
to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a
23 conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of
the Penal Code shall provide proof of the dismissal.

24 (d) A board may deny a license regulated by this code on the ground that the
25 applicant knowingly made a false statement of fact that is required to be revealed in
the application for the license.

26 5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license
27 on the ground that the licensee has been convicted of a crime substantially related to the
28 qualifications, functions, or duties of the business or profession for which the license was issued.

1 6. Section 4301 states, in pertinent part:

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

5

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

25

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

27 REGULATORY PROVISIONS

28 7. California Code of Regulations, title 16, section 1770, states:

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

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Substantially Related Crime)

 8. Respondent's application is subject to denial under section 480, subdivision (a)(1), in
that Respondent was convicted of a substantially related crime. Specifically, on or about July 14,
2017, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of
violating Vehicle Code section 23109, subdivision (c) [exhibition of speed] in the criminal

1 proceeding entitled *The People of the State of California v. Joshua Darko* (Super. Ct. L.A.
2 County, 2017, No. 6MN00470.) The court sentenced Respondent to serve one day in jail and
3 placed him on 24 months' probation, with terms and conditions - some of which he violated -
4 resulting in bench warrants issued by the court.

5 9. The circumstances surrounding the conviction are that on or about December 30,
6 2015, Respondent was observed by officers slumped forward in the driver seat of his vehicle and
7 he appeared to be asleep. After officers awoke Respondent, he submitted to a series of field
8 sobriety tests which he was unable to complete as performed. Additional investigation by the
9 officers also revealed that Respondent was driving without a valid California driver's license and
10 that a driver's license issued to him by the State of Delaware was suspended. Respondent was
11 subsequently placed under arrest for driving under the influence of an unknown alcoholic
12 intoxicant and deemed unable to safely operate a motor vehicle and transported to the station for
13 further processing during which he refused any chemical testing.

14 **SECOND CAUSE FOR DENIAL OF APPLICATION**

15 **(Knowingly Made a False Statement of Fact)**

16 10. Respondent's application is subject to denial under section 480, subdivision (d), in
17 that on or about October 22, 2018, Respondent knowingly made a false statement of fact required
18 to be revealed in his application when he failed to disclose his conviction. Complainant refers to,
19 and by this reference incorporates, the allegations set forth in paragraph 8, as though set forth
20 fully.

21 **THIRD CAUSE FOR DENIAL OF APPLICATION**

22 **(Acts Warranting Denial of Licensure)**

23 11. Respondent's application is subject to denial under sections 4301, subdivision (p) and
24 480, subdivisions (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a
25 licentiate of the business and profession, would be grounds for suspension or revocation of his
26 license in that Respondent was convicted of a crime substantially related to the qualifications,
27 functions, or duties of an intern pharmacist which to a substantial degree evidence his present or
28 potential unfitness to perform the functions authorized by his license in a manner consistent with

1 the public health, safety, or welfare, in violation of sections 4301, subdivision (l), and 490, in
2 conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to,
3 and by this reference incorporates, the allegations set forth above in paragraph 8, as though set
4 forth fully.

5 PRAYER

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

- 8 1. Denying the application of Joshua Konadu-Darko for a Intern Pharmacist License;
9 and
10 2. Taking such other and further action as deemed necessary and proper.

11
12 DATED: September 26, 2019



13 ANNE SODERGREN
14 Interim Executive Officer
15 Board of Pharmacy
16 Department of Consumer Affairs
17 State of California
18 *Complainant*

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