

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

In the Matter of the Accusation Against:

**JENNY YAM DBA SMITH PHARMACY
Pharmacy Permit No. PHY 41098,**

and

**JENNY YAN YAM
Pharmacist License No. RPH 59408**

Respondents.

Agency Case No. 7692

OAH No. 2024080494

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on April 9, 2025.

It is so ORDERED on March 10, 2025.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is written in a cursive style with a large, sweeping initial "S".

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 NANCY A. KAISER
Supervising Deputy Attorney General
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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:
13 **JENNY YAM DBA SMITH PHARMACY**
14 **1732 South Western Avenue**
15 **Los Angeles, CA 90006**
16 **Pharmacy Permit No. PHY 41098,**
17 **and**
18 **JENNY YAN YAM**
19 **421 N. Pine St.**
20 **San Gabriel, CA 91755**
21 **Pharmacist License No. RPH 59408**
22 Respondents.

Case No. 7692
OAH No. 2024080494
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER ONLY AS TO
RESPONDENT JENNY YAN YAM**

21 In the interest of a prompt and speedy settlement of this matter, consistent with the public
22 interest and the responsibility of the Board of Pharmacy (“Board”) of the Department of
23 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
24 Disciplinary Order, which will be submitted to the Board for approval and adoption as the final
25 disposition of the Accusation solely with respect to Respondent Jenny Yan Yam (“Respondent”).
26 It does not apply to Respondent Jenny Yam, doing business as Smith Pharmacy.
27
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1 **PARTIES**

2 1. Anne Sodergren (“Complainant”) is the Executive Officer of the Board. She brought
3 this action solely in her official capacity and is represented in this matter by Rob Bonta, Attorney
4 General of the State of California, by Stephen D. Svetich, Deputy Attorney General.

5 2. Respondent is represented in this proceeding by attorney Herbert L. Weinberg, Esq.,
6 whose address is: 1990 South Bundy Drive, Suite 777, Los Angeles, CA 90025.

7 3. On or about March 21, 2007, the Board issued Pharmacist License Number RPH
8 59408 to Respondent Yam. The Pharmacist License was in full force and effect at all times
9 relevant to the charges brought herein and will expire on October 31, 2026, unless renewed.

10 **JURISDICTION**

11 4. Accusation No. 7692 was filed before the Board and is currently pending against
12 Respondent. The Accusation and all other statutorily required documents were properly served
13 on Respondent on April 8, 2025. Respondent timely filed her Notice of Defense contesting the
14 Accusation.

15 5. A copy of Accusation No. 7692 is attached as Exhibit A and incorporated herein by
16 reference.

17 **ADVISEMENT AND WAIVERS**

18 6. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in Accusation No. 7692. Respondent has also carefully read, fully
20 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
21 Order.

22 7. Respondent is fully aware of her legal rights in this matter, including the right to a
23 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
24 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
25 to the issuance of subpoenas to compel the attendance of witnesses and the production of
26 documents; the right to reconsideration and court review of an adverse decision; and all other
27 rights accorded by the California Administrative Procedure Act and other applicable laws.
28

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacist License No. RPH 59408 issued to Respondent
9 Jenny Yan Yam is revoked. However, the revocation is stayed and Respondent is placed on
10 probation for three (3) years on the following terms and conditions:

11 **1. Obey All Laws**

12 Respondent shall obey all state and federal laws and regulations.

13 Respondent shall report any of the following occurrences to the board, in writing, within
14 seventy- two (72) hours of such occurrence:

- 15 • an arrest or issuance of a criminal complaint for violation of any provision of the
16 Pharmacy Law, state and federal food and drug laws, or state and federal
17 controlled substances laws
- 18 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
19 criminal proceeding to any criminal complaint, information or indictment
- 20 • a conviction of any crime
- 21 • the filing of a disciplinary pleading, issuance of a citation, or initiation of another
22 administrative action filed by any state or federal agency which involves
23 Respondent's license or which is related to the practice of pharmacy or the
24 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
25 device or controlled substance.

26 Failure to timely report such occurrence shall be considered a violation of probation.

27 **2. Report to the Board**

28 Respondent shall report to the board quarterly, on a schedule as directed by the board or its

1 designee. The report shall be made either in person or in writing, as directed. Among other
2 requirements, Respondent shall state in each report under penalty of perjury whether there has
3 been compliance with all the terms and conditions of probation.

4 Failure to submit timely reports in a form as directed shall be considered a violation of
5 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
6 total period of probation. Moreover, if the final probation report is not made as directed,
7 probation shall be automatically extended until such time as the final report is made and accepted
8 by the board.

9 3. Interview with the Board

10 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
11 with the board or its designee, at such intervals and locations as are determined by the board or its
12 designee. Failure to appear for any scheduled interview without prior notification to board staff,
13 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
14 the period of probation, shall be considered a violation of probation.

15 4. Cooperate with Board Staff

16 Respondent shall timely cooperate with the board's inspection program and with the board's
17 monitoring and investigation of Respondent's compliance with the terms and conditions of her
18 probation, including but not limited to: timely responses to requests for information by board
19 staff; timely compliance with directives from board staff regarding requirements of any term or
20 condition of probation; and timely completion of documentation pertaining to a term or condition
21 of probation. Failure to timely cooperate shall be considered a violation of probation.

22 5. Continuing Education

23 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
24 pharmacist as directed by the board or its designee.

25 6. Reporting of Employment and Notice to Employers

26 During the period of probation, Respondent shall notify all present and prospective
27 employers of the decision in case number 7692 and the terms, conditions and restrictions imposed
28 on Respondent by the decision, as follows:

1 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
2 undertaking any new employment, Respondent shall report to the board in writing the name,
3 physical address, and mailing address of each of her employer(s), and the name(s) and telephone
4 number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in-charge, designated
5 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
6 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
7 employment. Respondent shall sign and return to the board a written consent authorizing the
8 board or its designee to communicate with all of Respondent's employer(s) and supervisor(s), and
9 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,
10 concerning Respondent's work status, performance, and monitoring. Failure to comply with the
11 requirements or deadlines of this condition shall be considered a violation of probation.

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 Respondent undertaking any new employment, Respondent shall cause (a) her direct supervisor,
14 (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
15 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the
16 board in writing acknowledging that the listed individual(s) has/have read the decision in case
17 number 7692, and terms and conditions imposed thereby. If one person serves in more than one
18 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's
19 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
20 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
21 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in
22 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
23 in case number 7692, and the terms and conditions imposed thereby.

24 If Respondent works for or is employed by or through an employment service, Respondent
25 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
26 of the decision in case number 7692, and the terms and conditions imposed thereby in advance of
27 Respondent commencing work at such licensed entity. A record of this notification must be
28 provided to the board upon request.

1 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
2 (15) days of Respondent undertaking any new employment by or through an employment service,
3 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
4 service to report to the board in writing acknowledging that he or she has read the decision in case
5 number, and the terms and conditions imposed thereby. It shall be Respondent's responsibility to
6 ensure that these acknowledgment(s) are timely submitted to the board.

7 Failure to timely notify present or prospective employer(s) or failure to cause the identified
8 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
9 shall be considered a violation of probation.

10 "Employment" within the meaning of this provision includes any full-time, part-time,
11 temporary, relief, or employment/management service position as a Pharmacist, or any position
12 for which a Pharmacist is a requirement or criterion for employment, whether the Respondent is
13 an employee, independent contractor or volunteer.

14 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

15 Respondent shall further notify the board in writing within ten (10) days of any change in
16 name, residence address, mailing address, e-mail address or phone number.

17 Failure to timely notify the board of any change in employer, name, address, or phone
18 number shall be considered a violation of probation.

19 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

20 During the period of probation, Respondent shall not supervise any intern pharmacist, be
21 the pharmacist-in-charge, designated representative-in-charge, responsible manager or other
22 compliance supervisor of any entity licensed by the board, nor serve as a consultant. However,
23 Respondent may remain the pharmacist-in-charge of Smith Pharmacy, Pharmacy Permit No. PHY
24 41098. Assumption of any such unauthorized supervision responsibilities shall be considered a
25 violation of probation.

26 **9. Reimbursement of Board Costs**

27 As a condition precedent to successful completion of probation, Respondent shall pay to the
28 board its costs of investigation and prosecution in the amount of \$10,441.00. Respondent

1 understands that she and Respondent Jenny Yam, doing business as Smith Pharmacy, are jointly
2 and severally liable for payment of these costs. Respondent shall be permitted to pay these costs
3 in a payment plan approved by the board or its designee, so long as full payment is completed no
4 later than one (1) year prior to the end date of probation.

5 **10. Probation Monitoring Costs**

6 Respondent shall pay any costs associated with probation monitoring as determined by the
7 board each and every year of probation. Such costs shall be payable to the board on a schedule as
8 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
9 be considered a violation of probation.

10 **11. Status of License**

11 Respondent shall, at all times while on probation, maintain an active, current Pharmacist
12 License with the board, including any period during which suspension or probation is tolled.
13 Failure to maintain an active, current Pharmacist License shall be considered a violation of
14 probation.

15 If Respondent's Pharmacist License expires or is cancelled by operation of law or otherwise
16 at any time during the period of probation, including any extensions thereof due to tolling or
17 otherwise, upon renewal or reapplication Respondent's license shall be subject to all terms and
18 conditions of this probation not previously satisfied.

19 **12. License Surrender While on Probation/Suspension**

20 Following the effective date of this decision, should Respondent cease practice due to
21 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
22 Respondent may relinquish her license, including any indicia of licensure issued by the board,
23 along with a request to surrender the license. The board or its designee shall have the discretion
24 whether to accept the surrender or take any other action it deems appropriate and reasonable.
25 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to
26 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
27 become a part of the Respondent's license history with the board.
28

1 Upon acceptance of the surrender, Respondent shall relinquish her pocket and/or wall
2 license, including any indicia of licensure not previously provided to the board within ten (10)
3 days of notification by the board that the surrender is accepted if not already provided.
4 Respondent may not reapply for any license from the board for three (3) years from the effective
5 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
6 of the date the application for that license is submitted to the board, including any outstanding
7 costs.

8 **13. Practice Requirement – Extension of Probation**

9 Except during periods of suspension, Respondent shall, at all times while on probation, be
10 employed as a Pharmacist in California for a minimum of 80 hours per calendar month. Any
11 month during which this minimum is not met shall extend the period of probation by one month.
12 During any such period of insufficient employment, Respondent must nonetheless comply with
13 all terms and conditions of probation, unless Respondent receives a waiver in writing from the
14 board or its designee.

15 If Respondent does not practice as a Pharmacist in California for the minimum number of
16 hours in any calendar month, for any reason (including vacation), Respondent shall notify the
17 board in writing within ten (10) days of the conclusion of that calendar month. This notification
18 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
19 interruption or reduction in practice; and the anticipated date(s) on which Respondent will resume
20 practice at the required level. Respondent shall further notify the board in writing within ten (10)
21 days following the next calendar month during which Respondent practices as a Pharmacist in
22 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
23 considered a violation of probation.

24 It is a violation of probation for Respondent's probation to be extended pursuant to the
25 provisions of this condition for a total period, counting consecutive and non-consecutive months,
26 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
27 probation period on its website.

28 **14. Violation of Probation**

1 If Respondent has not complied with any term or condition of probation, the board shall
2 have continuing jurisdiction over Respondent, and the board shall provide notice to Respondent
3 that probation shall automatically be extended, until all terms and conditions have been satisfied
4 or the board has taken other action as deemed appropriate to treat the failure to comply as a
5 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
6 board or its designee may post a notice of the extended probation period on its website.

7 If Respondent violates probation in any respect, the board, after giving Respondent notice
8 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
9 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
10 probation, or the preparation of an accusation or petition to revoke probation is requested from
11 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
12 probation shall be automatically extended until the petition to revoke probation or accusation is
13 heard and decided. In any proceeding on a petition to revoke the probation granted by this Order,
14 the charges and allegations in Accusation No. 7692 shall be deemed true and correct and admitted
15 by Respondent.

16 **15. Completion of Probation**

17 Upon written notice by the board or its designee indicating successful completion of
18 probation, Respondent's license will be fully restored.

19 **16. Remedial Education**

20 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
21 board or its designee, for prior approval, an appropriate program of remedial education related to
22 Pharmacy Law and Operations. The program of remedial education shall consist of at least six (6)
23 hours, which shall be completed within one year of the effective date of this Decision at
24 Respondent's own expense. All remedial education shall be in addition to, and shall not be
25 credited toward, continuing education (CE) courses used for license renewal purposes for
26 pharmacists.

27 Failure to timely submit for approval or complete the approved remedial education shall be
28 considered a violation of probation. The period of probation will be automatically extended until

1 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Board of Pharmacy.

3
4 DATED: _____
5 JENNY YAN YAM
6 Respondent

7 I have read and fully discussed with Respondent Jenny Yan Yam the terms and conditions
8 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
9 its form and content.

10 DATED: _____
11 HERBERT L. WEINBERG, ESQ.
12 Attorney for Respondent

13 **ENDORSEMENT**

14 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
15 submitted for consideration by the Board of Pharmacy.

16 DATED: _____ Respectfully submitted,
17 ROB BONTA
18 Attorney General of California
19 NANCY A. KAISER
20 Supervising Deputy Attorney General

21 STEPHEN D. SVETICH
22 Deputy Attorney General
23 Attorneys for Complainant

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26
27
28

1 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Board of Pharmacy.

3
4 DATED: 2/4/2025 
5 JENNY YAN YAM
6 Respondent

6 I have read and fully discussed with Respondent Jenny Yan Yam the terms and conditions
7 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
8 its form and content.


9
10 DATED: 2/4/2025 
11 HERBERT L. WEINBERG, ESQ.
12 Attorney for Respondent

ENDORSEMENT

13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
14 submitted for consideration by the Board of Pharmacy.

15 DATED: February 5, 2025

16 Respectfully submitted,
17 ROB BONTA
18 Attorney General of California
19 NANCY A. KAISER
20 Supervising Deputy Attorney General


21 STEPHEN D. SVETICH
22 Deputy Attorney General
23 Attorneys for Complainant

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25 67395738.docx

Exhibit A

Accusation No. 7692

1 ROB BONTA
Attorney General of California
2 NANCY A. KAISER
Supervising Deputy Attorney General
3 STEPHEN D. SVETICH
Deputy Attorney General
4 State Bar No. 272370
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E-mail: Stephen.Svetich@doj.ca.gov
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
BOARD OF PHARMACY
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7692

13 **JENNY YAM DBA SMITH PHARMACY**
14 **1732 South Western Avenue**
Los Angeles, CA 90006

ACCUSATION

15 **Pharmacy Permit No. PHY 41098,**

16 **and**

17 **JENNY YAN YAM**
18 **421 N. Pine St.**
San Gabriel, CA 91755

19 **Pharmacist License No. RPH 59408**

20 Respondent.
21

22 **PARTIES**

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

26 2. On or about January 3, 1996, the Board issued Pharmacy Permit Number PHY 41098
27 to Jenny Yam, doing business as Smith Pharmacy, Jenny Yam 100% Shareholder (“Respondent
28

1 Smith Pharmacy”). The Pharmacy Permit was in full force and effect at all times relevant to the
2 charges brought herein and will expire on January 1, 2025, unless renewed.

3 3. On or about March 21, 2007, the Board issued Pharmacist License Number RPH
4 59408 to Jenny Yan Yam (“Respondent Yam”).¹ The Pharmacist License was in full force and
5 effect at all times relevant to the charges brought herein and will expire on October 31, 2024,
6 unless renewed. Respondent Yam has been the Pharmacist-in-Charge (“PIC”) at Respondent
7 Smith Pharmacy since July 26, 2013.

8 **JURISDICTION**

9 4. This Accusation is brought before the Board under the authority of the following
10 laws. All section references are to the Business and Professions Code (“Code”) unless otherwise
11 indicated.

12 5. Section 4011 of the Code provides that the Board shall administer and enforce both
13 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
14 Act [Health & Safety Code, § 11000 et seq.].

15 6. Section 4300, subdivision (a) of the Code provides that every license issued by the
16 Board may be suspended or revoked.

17 7. Section 4300.1 of the Code states:

18 The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation
19 of law or by order or decision of the board or a court of law, the placement of a license on a
20 retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
21 jurisdiction to commence or proceed with any investigation of, or action or disciplinary
22 proceeding against, the licensee or to render a decision suspending or revoking the license.

23 8. Section 4302 of the Code states, “[t]he board may deny, suspend, or revoke any
24 license where conditions exist in relation to any person holding 10 percent or more of the
25 ownership interest or where conditions exist in relation to any officer, director, or other person
26

27 _____
28 ¹ Respondent Smith Pharmacy and Respondent Yam are referred to collectively herein as
“Respondents.”

1 with management or control of the license that would constitute grounds for disciplinary action
2 against a licensee.”

3 9. Section 4307 of the Code states:

4 (a) Any person who has been denied a license or whose license has been revoked or
5 is under suspension, or who has failed to renew his or her license while it was under
6 suspension, or who has been a manager, administrator, owner, member, officer, director,
7 associate, partner, or any other person with management or control of any partnership,
8 corporation, trust, firm, or association whose application for a license has been denied or
9 revoked, is under suspension or has been placed on probation, and while acting as the
10 manager, administrator, owner, member, officer, director, associate, partner, or any other
11 person with management or control had knowledge of or knowingly participated in any
12 conduct for which the license was denied, revoked, suspended, or placed on probation, shall
13 be prohibited from serving as a manager, administrator, owner, member, officer, director,
14 associate, partner, or in any other position with management or control of a licensee as
15 follows:

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

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

16 (b) “Manager, administrator, owner, member, officer, director, associate, partner, or
17 any other person with management or control of a license” as used in this section and
18 Section 4308 , may refer to a pharmacist or to any other person who serves in such capacity
19 in or for a licensee.

19 (c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant
20 to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government
21 Code. However, no order may be issued in that case except as to a person who is named in
22 the caption, as to whom the pleading alleges the applicability of this section, and where the
23 person has been given notice of the proceeding as required by Chapter 5 (commencing with
24 Section 11500) of Part 1 of Division 3 of the Government Code. The authority to proceed
25 as provided by this subdivision shall be in addition to the board's authority to proceed under
26 Section 4339 or any other provision of law.

24 **STATUTORY PROVISIONS**

25 10. Section 4022 of the Code states, in pertinent part:

26 Dangerous drug or dangerous device means any drug or device unsafe for
27 self-use in humans or animals, and includes the following:

28 (a) Any drug that bears the legend: Caution: federal law prohibits dispensing

without prescription, Rx only, or words of similar import.

(b) Any device that bears the statement: Caution: federal law restricts this device to sale by or on the order of a _____, Rx only, or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

11. Section 4081 of the Code states, in pertinent part:

(a) All records of manufacture and of sale, acquisition, receipt, shipment, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian, laboratory, licensed correctional clinic, as defined in Section 4187, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

(b) The owner, officer, and partner of a pharmacy, wholesaler, third-party logistics provider, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge, responsible manager, or designated representative-in-charge, for maintaining the records and inventory described in this section.

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12. Section 4113 of the Code states, in pertinent part:

....

(c) The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy...

13. Section 4301 of the Code 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:

....

(j) The violation of any of the statutes of this state, of 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.

....

14. Section 4169 of the Code states, in pertinent part:

(a) A person or entity shall not do any of the following:

(1) Purchase, trade, sell, warehouse, distribute, or transfer dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler, third-party logistics provider, or pharmacy.

(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were misbranded, as defined in Section 111335 of the Health and Safety Code.

(4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the beyond use date on the label.

1 (5) Fail to maintain records of the acquisition or disposition of dangerous drugs or
2 dangerous devices for at least three years.

3

4 15. Section 4342 of the Code states, in pertinent part:

5 (a) The board may institute any action or actions as may be provided by law
6 and that, in its discretion, are necessary, to prevent the sale of pharmaceutical
7 preparations and drugs that do not conform to the standard and tests as to quality and
8 strength, provided in the latest edition of the United States Pharmacopoeia or the
9 National Formulary, or that violate any provision of the Sherman Food, Drug, and
10 Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the
11 Health and Safety Code).

12

13 **HEALTH AND SAFETY CODE STATUTES**

14 16. Section 111395 of the Healthy and Safety Code provides in part:

15 Any drug is misbranded in any of the following cases:

16

17 (c) The contents of the original package have been, wholly or partly,
18 removed and replaced with other material in the package.

19 17. Section 111440 of the Healthy and Safety Code states, “[i]t is unlawful for any person
20 to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded.”

21 **COST RECOVERY**

22 18. Section 125.3 of the Code states, in pertinent part, that the Board may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case.

26 ///

DEFINITIONS

19. The following drugs and controlled substances are relevant to the charges alleged herein:

TABLE NUMBER 1 Drug and Controlled Substance Definitions				
BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER B&P CODE § 4022?	CONTROLLED SUBSTANCE PER HEALTH AND SAFETY CODE	INDICATIONS FOR USE
Amaryl	Glimepiride	Yes	No	Diabetes
Apresoline	Hydralazine	Yes	No	Hypertension
Atarax	Hydroxyzine	Yes	No	Antihistamine
Calan	Verapamil	Yes	No	Angina; Hypertension
Diovan	Valsartan	Yes	No	Hypertension
Flomax	Dutasteride	Yes	No	Benign Prostatic Hyperplasia
Prozac	Fluoxetine	Yes	No	Depression

FACTUAL ALLEGATIONS

20. On December 13, 2022, a Board inspector conducted a routine inspection at Respondent Smith Pharmacy. The Board inspector inspected the medication shelves and found an extremely large number of expired medications commingled in the active drug stock. The Board inspector estimated that approximately half the medications on the shelves were expired. Some were expired for a few months, and some were expired for several years. Respondent Yam told the Board inspector that she did not allow reverse distributor employees into the pharmacy to process drug returns, so Respondents were unable to send any expired medications to a reverse distributor.

21. The Board inspector requested and received from Respondents' Drug Utilization Reports ("DURs") for a sample of the expired drugs, hydralazine 25 mg, hydralazine 50 mg, and dutasteride 0.5 mg. The DURs for each drug were generated with a date range after the

1 expiration date printed on each expired drug stock bottle. The DURs confirmed that the
2 pharmacy had dispensed prescriptions after the expiration dates of the drugs, but Respondents did
3 not have any non-expired drug stock of these medications on the shelves. Based on this finding,
4 the Board inspector requested and received from Respondents DURs for verapamil 40 mg,
5 hydroxyzine 10 mg, glimepiride 1 mg, and fluoxetine 40 mg.

6 22. The Board inspector requested and received from Respondents acquisition reports for
7 verapamil 40 mg, hydroxyzine 10 mg, glimepiride 1 mg, fluoxetine 40 mg, hydralazine 25 mg,
8 hydralazine 50 mg, and dutasteride 0.5 mg. The Board inspector also requested and received
9 sales history reports for Respondent Smith Pharmacy’s purchases of these medications from
10 Respondent Smith Pharmacy’s suppliers, McKesson Drug Company (“McKesson”) and
11 Amerisource Bergen (“ABC”).

12 23. The acquisition reports and sales history reports for Respondent Smith Pharmacy’s
13 purchases of verapamil 40 mg, hydroxyzine 10 mg, glimepiride 1 mg, fluoxetine 40 mg,
14 hydralazine 25 mg, hydralazine 50 mg, and dutasteride 0.5 mg confirmed that Respondent Smith
15 Pharmacy did not purchase drug stock of these drugs after the expiration dates printed on the drug
16 packages in Respondent Smith Pharmacy on December 13, 2022.

17 24. Respondent Smith Pharmacy did not have non-expired drug stock of these drugs
18 during the time of the inspection, and the pharmacy did not purchase drugs since the expiration
19 dates of the drugs reviewed. Therefore, the pharmacy dispensed expired drugs for the following
20 prescriptions:

TABLE NUMBER 2					
Prescriptions Dispensed by Respondents with Expired Drugs					
Number	Drug	RX #	Date Dispensed	Patient	Quantity Dispensed
1	Dutasteride 0.5 mg	946726	1/6/2022	TL	30
2	Dutasteride 0.5 mg	951616	3/17/2022	TL	30
3	Dutasteride 0.5 mg	951616	4/16/2022	TL	30

1	4	Dutasteride 0.5 mg	951616	5/20/2022	TL	30
2	5	Dutasteride 0.5 mg	958678	6/24/2022	TL	30
3	6	Dutasteride 0.5 mg	968806	11/11/2022	MH	30
4	7	Dutasteride 0.5 mg	968806	12/5/2022	MH	30
5	8	Fluoxetine 40 mg	953711	4/18/2022	AG	30
6	9	Glimepiride 1 mg	950502	6/17/2022	VM	30
7	10	Glimepiride 1 mg	950502	7/12/2022	VM	30
8	11	Glimepiride 1 mg	950502	8/16/2022	VM	30
9	12	Glimepiride 1 mg	963131	8/2/2022	AM	30
10	13	Glimepiride 1 mg	950502	9/8/2022	VM	30
11	14	Glimepiride 1 mg	950502	10/5/2022	VM	30
12	15	Glimepiride 1 mg	950502	10/31/2022	VM	30
13	16	Hydralazine 25 mg	947838	1/20/2022	LS	60
14	17	Hydralazine 25 mg	949783	2/18/2022	LS	60
15	18	Hydralazine 25 mg	949783	3/14/2022	LS	60
16	19	Hydralazine 25 mg	949783	4/12/2022	LS	60
17	20	Hydralazine 25 mg	967439	10/25/2022	MG	60
18	21	Hydralazine 25 mg	967439	11/19/2022	MG	60
19	22	Hydralazine 50 mg	956781	6/24/2022	SC	90
20	23	Hydralazine 50 mg	947562	6/29/2022	HM	90
21	24	Hydralazine 50 mg	956781	7/26/2022	SC	90
22	25	Hydralazine 50 mg	956781	8/23/2022	SC	90
23	26	Hydralazine 50 mg	956781	9/17/2022	SC	90
24	27	Hydralazine 50 mg	956781	10/17/2022	SC	90
25	28	Hydralazine 50 mg	962924	10/31/2022	RH	270
26	29	Hydralazine 50 mg	956781	11/15/2022	SC	90
27	30	Hydroxyzine 10 mg	900788	5/22/2020	NQ	30

1	31	Hydroxyzine 10 mg	903940	6/10/2020	NA	15
2	32	Hydroxyzine 10 mg	924312	3/10/2021	LS	30
3	33	Hydroxyzine 10 mg	928800	5/5/2021	GD	50
4	34	Hydroxyzine 10 mg	929823	5/20/2021	JC	30
5	35	Hydroxyzine 10 mg	933460	7/12/2021	MP	30
6	36	Hydroxyzine 10 mg	934697	7/31/2021	JC	30
7	37	Hydroxyzine 10 mg	933460	8/23/2021	MP	30
8	38	Hydroxyzine 10 mg	9332297	9/27/2021	SD	20
9	39	Hydroxyzine 10 mg	933460	9/28/2021	MP	30
10	40	Hydroxyzine 10 mg	940625	10/14/2021	JH	30
11	41	Hydroxyzine 10 mg	940625	11/16/2021	JH	30
12	42	Hydroxyzine 10 mg	943044	11/16/2021	BL	25
13	43	Hydroxyzine 10 mg	943044	12/1/2021	BL	25
14	44	Hydroxyzine 10 mg	940625	12/9/2021	JH	30
15	45	Hydroxyzine 10 mg	943044	12/17/2021	BL	25
16	46	Hydroxyzine 10 mg	940625	1/4/2022	JH	30
17	47	Hydroxyzine 10 mg	950696	3/3/2022	JC	30
18	48	Hydroxyzine 10 mg	950696	4/5/2022	JC	30
19	49	Hydroxyzine 10 mg	950696	5/6/2022	HC	30
20	50	Hydroxyzine 10 mg	954927	5/6/2022	NM	30
21	51	Hydroxyzine 10 mg	950696	6/9/2022	JC	30
22	52	Hydroxyzine 10 mg	968496	11/7/2022	LL	50
23	53	Verapamil 40 mg	865825	2/26/2019	JP	60
24	54	Verapamil 40 mg	865825	3/28/2019	JP	60
25	55	Verapamil 40 mg	877091	7/10/2019	JP	60
26	56	Verapamil 40 mg	877091	8/14/2019	JP	60
27	57	Verapamil 40 mg	877091	9/25/2019	JP	60

1 25. Based on the analysis conducted by the Board's inspector of the seven audited drugs,
2 Respondents dispensed the following total number of expired drugs to patients:

3 **TABLE NUMBER 3**
4 **Summary of Expired Drug Sales by Respondents**

5

6 Number	Drug	Drug Expiration Date	Date of Last Acquisition from ABC	Date of Last Acquisition from McKesson	Total Expired Quantity Dispensed
7 1	Dutasteride 0.5 mg	12/2021	8/24/2020	3/17/2020	210
8 2	Fluoxetine 40 mg	8/2021	2/1/2019	N/A	30
9 3	Glimepiride 1 mg	5/2022	12/11/2019	N/A	210
10 4	Hydralazine 25 mg	11/2021	5/13/2020	N/A	420
11 5	Hydralazine 50 mg	5/2022	2/21/2020	4/10/2020	900
12 6	Hydroxyzine 10 13 mg	4/2020	N/A	N/A	690
14 7	Verapamil 40 mg	1/2019	N/A	N/A	300

15

16 26. Respondents were unable to produce any additional purchase records for the seven
17 audited drugs. Respondent Yam stated that some pharmacy records were damaged during the
18 riots and that they were unable to obtain purchase records from wholesalers who merged with
19 other companies.²

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28 ² Respondents could have provided a statement for the missing records or obtained purchase records from the wholesalers that merged. Respondents did neither.

1 27. While inspecting Respondents' medication shelves, the Board inspector observed
2 misbranded overfilled medication stock bottles. The medication bottles were filled with pills
3 exceeding the manufactured labeled quantity of medication as counted by Respondent Yam and
4 detailed below:

5

6 **TABLE NUMBER 4**
Misbranded Overfilled Medication Stock

7

8 Drug	9 Manufacturer Labeled Number of Pills in Bottle	10 Pills in Bottle on 12/13/2022, as Counted by Respondent Yam
11 Glimepiride 1 mg	100	329
12 Verapamil 40 mg	100	434
13 Hydroxyzine 10 mg	100	325
14 Tamsulosin 0.4 mg	100	176
15 Valsartan 160 mg	100	164

16 28. In addition to being overfilled, the tamsulosin capsules referenced in Table 4, above,
17 were in a NorthStar stock bottle. However, the pills were manufactured by Zydus, not NorthStar.
18 "Zydus" was handwritten on the NorthStar stock bottle.

19 29. Additionally, the Board inspector observed a hydralazine 100 mg stock bottle with a
20 handwritten label stating it was "Hydrox 10 mg." The tablets inside the hydralazine 100 mg
21 bottle were round white tablets with an imprint "A 75," which indicates they were hydroxyzine
22 10 mg tablets, not hydralazine 100 mg tablets.

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Misbranded Drugs – Both Respondents)

25 30. Respondents are subject to disciplinary action under Code sections 4301, subdivisions
26 (j) and (o), 4169, subdivision (a), and 4342, subdivision (a), and Health and Safety Code sections
27 111395, subdivision (c), and 111440, in that Respondents maintained in stock misbranded
28

1 medication bottles which contained product exceeding the printed package quantity and/or
2 contained medication that did not correspond to the drug printed on the drug package. Pursuant
3 to Code section 4113, subdivision (c), Respondent Yam, as Respondent Smith Pharmacy's PIC, is
4 responsible for the pharmacy's compliance with all state laws and regulations pertaining to the
5 practice of pharmacy. Complainant refers to and by this reference incorporates the allegations set
6 forth above in paragraphs 19 through 29, inclusive, as though set forth fully herein.

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Selling Expired Drugs – Both Respondents)

9 31. Respondents are subject to disciplinary action under Code sections and 4301,
10 subdivisions (j) and (o), 4169, subdivision (a), in that Respondents maintained an extremely high
11 number of expired drugs commingled with the pharmacy's active drug stock and dispensed at
12 least 57 prescriptions with expired drugs, as fully outlined in Tables 2 and 3, above. Pursuant to
13 Code section 4113, subdivision (c), Respondent Yam, as Respondent Smith Pharmacy's PIC, is
14 responsible for the pharmacy's compliance with all state laws and regulations pertaining to the
15 practice of pharmacy. Complainant refers to and by this reference incorporates the allegations set
16 forth above in paragraphs 19 through 29, inclusive, as though set forth fully herein.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Failure to Maintain Records and Current Inventory – Both Respondents)

19 32. Respondents are subject to disciplinary action under Code sections and 4301,
20 subdivisions (j) and (o), 4081, subdivision (a), in that Respondent Smith Pharmacy failed to
21 maintain all records of acquisition to support the dispensing of the dangerous drugs audited by the
22 Board's inspector. Pursuant to Code section 4081, subdivision (b), Respondent Yam is jointly
23 responsible with Respondent Smith Pharmacy for the pharmacy's compliance with Code section
24 4081, subdivision (a). Complainant refers to and by this reference incorporates the allegations set
25 forth above in paragraphs 19 through 29, inclusive, as though set forth fully herein.

26 **OTHER MATTERS**

27 33. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
28 PHY 41098, issued to Jenny Yam, doing business as Smith Pharmacy, Jenny Yan Yam shall be

1 prohibited from serving as a manger, administrator, owner, member, officer, director, associate,
2 or partner of a licensee for five years if Pharmacy Permit Number 41098 is placed on probation or
3 until Pharmacy Permit Number 41098 is reinstated if it is revoked.

4 34. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
5 Number RPH 59408, issued to Jenny Yan Yam, she shall be prohibited from serving as a
6 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
7 five years if Pharmacist License Number RPH 59408 is placed on probation or until Pharmacist
8 License Number RPH 59408 is reinstated if it is revoked.

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. Revoking or suspending Pharmacy Permit Number PHY 41098, issued to Jenny Yam,
13 doing business as Smith Pharmacy;

14 2. Revoking or suspending Pharmacist License Number RPH 59408, issued to Jenny
15 Yan Yam;

16 3. Ordering Jenny Yan Yam to pay the Board of Pharmacy the reasonable costs of the
17 investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3;

19 4. Prohibiting Jenny Yan Yam from serving as a manager, administrator, owner,
20 member officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
21 Number PHY 41098 is placed on probation or until Pharmacy Permit Number PHY 41098 is
22 reinstated if Pharmacy Permit Number 41098 issued to Jenny Yam, doing business as Smith
23 Pharmacy, is revoked; and

24 5. Prohibiting Jenny Yan Yam from serving as a manager, administrator, owner,
25 member officer, director, associate, or partner of a licensee for five years if Pharmacist License
26 Number RPH 59408 is placed on probation or until Pharmacist License Number RPH 59408 is
27 reinstated if Pharmacist License Number RPH 59408 issued to Jenny Yan Yam is revoked; and
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6. Taking such other and further action as deemed necessary and proper.

DATED: 4/2/2024

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2024.04.02 21:28:56
-07'00'

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

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