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

In the Matter of the Accusation Against: **KULDEEP KAUR GREWAL** **13313 Glencliff Way** **San Diego, CA 92130** **Pharmacist License No. RPH 40706** Respondent.	Case No. 3488 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Complainant Virginia Herold brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

2. On May 2, 1987, the Board issued Pharmacist License Number RPH 40706 to Respondent Kuldeep Kaur Grewal. The License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2010, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4300, subdivision (a) of the Business and Professions Code (Code) provides, in pertinent part, that every license issued may be suspended or revoked.

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

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

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

. . . .

(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.

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

7. Section 4022 of the Code states:

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

(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.

8. Section 4081 of the Code states in pertinent part:

(a) All records of manufacture and of sale, acquisition, 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 . . . pharmacy . . . 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.

11. 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 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

. . . .

(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

12. California Code of Regulations, title 16 (Regulations), section 1714 states in pertinent part:

. . . .

(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

. . . .

(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

13. Regulations, section 1718 states:

"Current Inventory" as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332. The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory.

COST RECOVERY

14. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTS

15. On March 6, 2008, Drug Enforcement Administration (DEA) and Federal Bureau of Investigation (FBI) agents simultaneously served federal search warrants at White Cross Pharmacy, Park Blvd. Pharmacy, and Galloway Pharmacy in San Diego after a two-year investigation into controlled substance diversion from the three pharmacies. From June 14, 2005, through September 17, 2007, Respondent was Pharmacist-in-Charge (PIC) at White Cross Pharmacy, and from September 17, 2007, through March 6, 2008, PIC at Park Blvd. Pharmacy.

16. As to White Cross Pharmacy, the warrants produced the following information:

a. Printouts of the tabulations and summary of White Cross's purchases of Hydrocodone 5/500, Hydrocodone 10/325, and Oxycodone 80, show White Cross purchased 600,800 tablets of Hydrocodone 5/500; 139,700 tablets of Hydrocodone 10/325; and 27,100 tablets of Oxycodone 80 from February 7, 2005, through March 6, 2008.

b. The DEA Biennial Inventory of February 7, 2005 shows 980 tablets of Oxycodone 80; 1500 tablets of Hydrocodone 5/500; and 1,640 tablets of Hydrocodone 10/325; and a closing inventory (stock on hand) of March 6, 2008, show 1,165 tablets of Oxycodone 80; 4,495 tablets of Hydrocodone 5/500; and 3,819 tablets of Hydrocodone 10/325.

c. From February 7, 2005, through March 6, 2008, White Cross dispensed 23,068 tablets of Oxycodone 80; 309,293 tablets of Hydrocodone 5/500; and 45,247 tablets of Hydrocodone 10/325.

Together, this information revealed that White Cross was short 2,341 (8%) tablets of Oxycodone 80mg.; short 49,126 (8%) tablets of Hydrocodone 5/500; and short 51,263 (38%) of Hydrocodone 10/325.

17. As to Park Blvd. Pharmacy, the warrants produced the following information:

a. Printouts of the tabulations and summary of Park's purchases of Hydrocodone 5/500, Hydrocodone 10/325 and Oxycodone 80, showing Park purchased 634,200 tablets of

Hydrocodone 5/500; 278,000 tablets of Hydrocodone 10/325; and 44,900 tablets of Oxycodone 80.1 from April 11, 2005 to March 6, 2008.

b. The DEA Biennial Inventory of April 11, 2005 shows 698 tablets of Oxycodone 80; 7,500 tablets of Hydrocodone 5/500; and 2,000 tablets of Hydrocodone 10/325; and a closing inventory (stock on hand) of 1,789 tablets of Oxycodone 80; 3,649 tablets of Hydrocodone 5/500; and 4,347 tablets of Hydrocodone 10/325.

Together, this information revealed that Park Blvd. was short 14,245 Oxycodone (31%); short 410,636 (64%) of Hydrocodone 5/500; and short 209,044 (75%) of Hydrocodone 10/325.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Violating Statutes Governing Practice of Pharmacy)

18. Respondent has subjected his license to disciplinary action under Code section 4301, subdivision (o) for violating and attempting to violate, assisting in the violation of, and conspiring to violate state and federal laws and regulations governing the practice of pharmacy, while PIC at White Cross and Park Blvd., as detailed in paragraphs 15—17 as follows:

a. Respondent failed to maintain all records of acquisition and disposition to be open for inspection for a period of three years, and to keep a current inventory showing accountability for all dangerous drugs, with resulting shortages, in violation of Code, section 4081, subdivision (a), and of Regulations, section 1718.

b. Respondent failed to maintain his facilities so that dangerous drugs were properly secured and distributed while PIC of White Cross and Park Blvd., with resulting shortages, in violation of Regulations, section 1714, subdivisions (b) and (d).

PRAYER

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

1. Revoking or suspending Original Pharmacist License Number RPH 4070, issued to Kuldeep Kaur Grewal, RPH;

2. Ordering Kuldeep Kaur Grewal to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 6/9/10

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant