

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

In the Matter of the Accusation Against:

Case No. 3489

AHMAD HNAINO
12956 Cristallo Place
San Diego, CA 92130

Pharmacist License No. RPH 50026

Respondent.

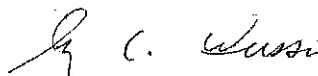
DECISION AND ORDER

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

This decision shall become effective on December 28, 2012.

It is so ORDERED on November 28, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
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11 In the Matter of the Accusation Against:

Case No. 3489

12 **AHMAD HNAINO**
13 **12956 Cristallo Place**
San Diego, CA 92130

OAH No. 2010090448

14 **Pharmacist License No. RPH 50026**

STIPULATED SURRENDER
OF LICENSE AND ORDER

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Complainant Virginia Herold is the Executive Officer of the Board of Pharmacy
21 (Board). She brought this action solely in her official capacity and is represented in this matter by
22 Kamala D. Harris, Attorney General of the State of California, by G. Michael German, Deputy
23 Attorney General.

24 2. Respondent Ahmad Hnaino is represented in this proceeding by attorney Armond
25 Marcarian, Esq., whose address is: 31111 W. Agoura Rd., Ste. 260, Westlake Village, CA 91361.

26 3. On April 8, 1998, the Board issued Pharmacist License No. RPH 50026 to
27 Respondent. The license was in full force and effect at all times relevant to the charges brought
28 in First Amended Accusation No. 3489 and will expire on September 30, 2013, unless renewed.

1 cause exists for discipline; and hereby surrenders his Pharmacist License No. RPH 50026 for the
2 Board's formal acceptance.

3 9. Respondent understands that by signing this stipulation he enables the Board to issue
4 an order accepting the surrender of his Pharmacist License without further process.

5 CONTINGENCY

6 10. This stipulation shall be subject to approval by the Board. Respondent understands
7 and agrees that counsel for Complainant and the staff of the Board may communicate directly
8 with the Board regarding this stipulation and surrender, without notice to or participation by
9 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
10 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
11 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
12 the Stipulated Surrender of License and Order shall be of no force or effect, except for this
13 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
14 be disqualified from further action by having considered this matter.

15 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
16 License and Order, including facsimile signatures thereto, shall have the same force and effect as
17 the originals.

18 12. This Stipulated Surrender of License and Order is intended by the parties to be an
19 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
20 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
21 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
22 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
23 executed by an authorized representative of each of the parties.

24 13. In consideration of the foregoing admissions and stipulations, the parties agree that
25 the Board may, without further notice or formal proceeding, issue and enter the following Order:

26 ORDER

27 IT IS HEREBY ORDERED that Pharmacist License No. RPH 50026 issued to Respondent
28 Ahmad Hnaino is surrendered and accepted by the Board of Pharmacy.

1 1. The surrender of Respondent's Pharmacist License and the acceptance of the
2 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
3 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
4 license history with the Board of Pharmacy.

5 2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the
6 effective date of the Board's Decision and Order.

7 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
8 issued, his wall certificate on or before the effective date of the Decision and Order..

9 4. Respondent understands and agrees that if he ever files an application for licensure or
10 a petition for reinstatement in the State of California, the Board shall treat it as a new application
11 for licensure.

12 5. Respondent may not apply for or petition for reinstatement of any license, permit, or
13 registration from the Board for three years from the effective date of this decision. All allegations
14 set forth in First Amended Accusation No. 3489, except those contained in subparagraph 24(a)
15 and subparagraph (c), lines 7 through 12, inclusive, relating to purchasing, dispensing, and
16 shorting of controlled substances at any time other than during his tenure as Pharmacist-in-Charge
17 at White Cross Pharmacy for the eight months from September 17, 2007, through May 28, 2008,
18 shall be deemed to be true, correct and admitted by Respondent when the Board determines
19 whether to grant or deny the application or petition. Respondent shall satisfy all requirements
20 applicable to that license as of the date the application is submitted to the Board, including, but
21 not limited to taking and passing the California Pharmacist Licensure Examination prior to the
22 issuance of a new license. Respondent is required to report this surrender as disciplinary action.

23 6. Respondent shall pay the Board its costs of investigation and enforcement in the
24 amount of \$19,728.50 prior to issuance of a new or reinstated license.

25 7. If Respondent should ever apply or reapply for a new license or certification, or
26 petition for reinstatement of a license, by any other health care licensing agency in the State of
27 California, all of the charges and allegations contained in First Amended Accusation No. 3489,
28 except those contained in subparagraph 24(a) and subparagraph (c), lines 7 through 12, inclusive,

1 relating to purchasing, dispensing, and shorting of controlled substances at any time other than
 2 during his tenure as Pharmacist-in-Charge at White Cross Pharmacy for the eight months from
 3 September 17, 2007, through May 28, 2008, shall be deemed to be true, correct, and admitted by
 4 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
 5 restrict licensure.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Surrender of License and Order and have fully
 8 discussed it with my attorney, Armond Marcarian, Esq. I understand the stipulation and the effect
 9 it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and
 10 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
 11 of the Board of Pharmacy.

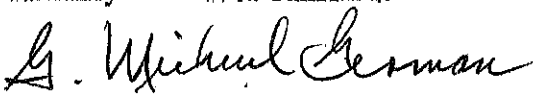
12 DATED: 10/18/2012 
 13 AHMAD HNAINO
 Respondent

14 I have read and fully discussed with Respondent Ahmad Hnaino the terms and conditions
 15 and other matters contained in this Stipulated Surrender of License and Order. I approve its form
 16 and content.

17 DATED: 10/18/2012 
 18 ARMOND MARCARIAN, ESQ.
 Attorney for Respondent Ahmad Hnaino

20 ENDORSEMENT

21 The foregoing Stipulated Surrender of License and Disciplinary Order is hereby
 22 respectfully submitted for consideration by the Board of Pharmacy of the Department of
 23 Consumer Affairs.

24 DATED: October 18, 2012
 25
 26 KAMALA D. HARRIS
 Attorney General of California

 27 G. MICHAEL GERMAN
 Deputy Attorney General
 Attorneys for Complainant

28 SD2009804866

Exhibit A

First Amended Accusation No. 3489

1 EDMUND G. BROWN JR.
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2 LINDA K. SCHNEIDER
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3 G. MICHAEL GERMAN
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12956 Cristallo Place
San Diego, CA 92130

OAH Case No. 2010090448

14 **Pharmacist License No. RPH 50026**

FIRST AMENDED
ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On April 8, 1998, the Board issued Pharmacist License Number RPH 50026 to
23 Respondent Ahmad H. Hnaino. The License was in full force and effect at all times relevant to
24 the charges brought herein and will expire on September 30, 2013, unless renewed.

25 **JURISDICTION**

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

1 9. Section 4060 of the Code states:

2 No person shall possess any controlled substance, except that furnished to a
3 person upon the prescription of a physician, dentist, podiatrist, optometrist,
4 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
5 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
6 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to
7 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
8 pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the
9 possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
10 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic
11 doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in
12 stock in containers correctly labeled with the name and address of the supplier or
13 producer.

14 10. Section 4081 of the Code states in pertinent part:

15 (a) All records of manufacture and of sale, acquisition, or disposition of
16 dangerous drugs or dangerous devices shall be at all times during business hours open
17 to inspection by authorized officers of the law, and shall be preserved for at least
18 three years from the date of making. A current inventory shall be kept by every . . .
19 pharmacy . . . holding a currently valid and unrevoked certificate, license, permit,
20 registration, or exemption under Division 2 (commencing with Section 1200) of the
21 Health and Safety Code or under Part 4 (commencing with Section 16000) of
22 Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous
23 drugs or dangerous devices.

24 11. Section 4110, subdivision (a), of the Code states:

25 No person shall conduct a pharmacy in the State of California unless he or she
26 has obtained a license from the board. A license shall be required for each pharmacy
27 owned or operated by a specific person. A separate license shall be required for each
28 of the premises of any person operating a pharmacy in more than one location. The
license shall be renewed annually. The board may, by regulation, determine the
circumstances under which a license may be transferred.

29 12. Section 4301 of the Code states, in pertinent part:

30 The board shall take action against any holder of a license who is guilty of
31 unprofessional conduct or whose license has been procured by fraud or
32 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
33 not limited to, any of the following:

34

35 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
36 deceit, or corruption, whether the act is committed in the course of relations as a
37 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

38

(j) The violation of any of the statutes of this state, or any other state, or of the
United States regulating controlled substances and dangerous drugs.

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

20

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

26

27 13. Section 4332 of the Code states:

28 Any person who fails, neglects, or refuses to maintain the records required by
Section 4081 or who, when called upon by an authorized officer or a member of the
board, fails, neglects, or refuses to produce or provide the records within a reasonable
time, or who willfully produces or furnishes records that are false, is guilty of a
misdemeanor.

14. Section 11153 of the Health and Safety (H&S) Code states in pertinent part:

(a) A prescription for a controlled substance shall only be issued for a
legitimate medical purpose by an individual practitioner acting in the usual course of
his or her professional practice. The responsibility for the proper prescribing and
dispensing of controlled substances is upon the prescribing practitioner, but a
corresponding responsibility rests with the pharmacist who fills the prescription.
Except as authorized by this division, the following are not legal prescriptions: (1) an
order purporting to be a prescription which is issued not in the usual course of
professional treatment or in legitimate and authorized research; or (2) an order for an
addict or habitual user of controlled substances, which is issued not in the course of
professional treatment or as part of an authorized narcotic treatment program, for the
purpose of providing the user with controlled substances, sufficient to keep him or her
comfortable by maintaining customary use.

1 15. Section 11158 of the H&S Code states in pertinent part:

2 (a) Except as provided in Section 11159 or in subdivision (b) of this section,
3 no controlled substance classified in Schedule II shall be dispensed without a
4 prescription meeting the requirements of this chapter. Except as provided in Section
5 11159 or when dispensed directly to an ultimate user by a practitioner, other than a
6 pharmacist or pharmacy, no controlled substance classified in Schedule III, IV, or V
7 may be dispensed without a prescription meeting the requirements of this chapter.

8 (b) A practitioner specified in Section 11150 may dispense directly to an
9 ultimate user a controlled substance classified in Schedule II in an amount not to
10 exceed a 72-hour supply for the patient in accordance with directions for use given by
11 the dispensing practitioner only where the patient is not expected to require any
12 additional amount of the controlled substance beyond the 72 hours. Practitioners
13 dispensing drugs pursuant to this subdivision shall meet the requirements of
14 subdivision (f) of Section 11164.

15 16. Section 11164 of the H&S Code states in pertinent part:

16 Except as provided in Section 11167, no person shall prescribe a controlled
17 substance, nor shall any person fill, compound, or dispense a prescription for a
18 controlled substance, unless it complies with the requirements of this section.

19 (a) Each prescription for a controlled substance classified in Schedule II, III,
20 IV, or V, except as authorized by subdivision (b), shall be made on a controlled
21 substance prescription form as specified in Section 11162.1 and shall meet the
22 following requirements:

23 (1) The prescription shall be signed and dated by the prescriber in ink and shall
24 contain the prescriber's address and telephone number; the name of the ultimate user
25 or research subject, or contact information as determined by the Secretary of the
26 United States Department of Health and Human Services; refill information, such as
27 the number of refills ordered and whether the prescription is a first-time request or a
28 refill; and the name, quantity, strength, and directions for use of the controlled
substance prescribed.

(2) The prescription shall also contain the address of the person for whom the
controlled substance is prescribed. If the prescriber does not specify this address on
the prescription, the pharmacist filling the prescription or an employee acting under
the direction of the pharmacist shall write or type the address on the prescription or
maintain this information in a readily retrievable form in the pharmacy. . . .

(b)(1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any
controlled substance classified in Schedule III, IV, or V may be dispensed upon an
oral or electronically transmitted prescription, which shall be produced in hard copy
form and signed and dated by the pharmacist filling the prescription or by any other
person expressly authorized by provisions of the Business and Professions Code. Any
person who transmits, maintains, or receives any electronically transmitted
prescription shall ensure the security, integrity, authority, and confidentiality of the
prescription.

(2) The date of issue of the prescription and all the information required for a
written prescription by subdivision (a) shall be included in the written record of the
prescription; the pharmacist need not include the address, telephone number, license

1 classification, or federal registry number of the prescriber or the address of the patient
on the hard copy, if that information is readily retrievable in the pharmacy,

2 (3) Pursuant to an authorization of the prescriber, any agent of the prescriber on
3 behalf of the prescriber may orally or electronically transmit a prescription for a
4 controlled substance classified in Schedule III, IV, or V, if in these cases the written
record of the prescription required by this subdivision specifies the name of the agent
of the prescriber transmitting the prescription.

5

6 17. Section 11350 of the H&S Code states in pertinent part:

7 (a) Except as otherwise provided in this division, every person who possesses
8 (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of
subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
9 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
10 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
11 practice in this state, shall be punished by imprisonment in the state prison.

12 (b) Except as otherwise provided in this division, every person who possesses
any controlled substance specified in subdivision (e) of Section 11054 shall be
13 punished by imprisonment in the county jail for not more than one year or in the state
prison.

14 (c) Except as otherwise provided in this division, whenever a person who
15 possesses any of the controlled substances specified in subdivision (a) or (b), the
judge may, in addition to any punishment provided for pursuant to subdivision (a) or
16 (b), assess against that person a fine not to exceed seventy dollars (\$70) with proceeds
of this fine to be used in accordance with Section 1463.23 of the Penal Code. The
17 court shall, however, take into consideration the defendant's ability to pay, and no
defendant shall be denied probation because of his or her inability to pay the fine
permitted under this subdivision.

18

19 18. Section 11352 of the H&S Code states:

20 (a) Except as otherwise provided in this division, every person who transports,
21 imports into this state, sells, furnishes, administers, or gives away, or offers to
transport, import into this state, sell, furnish, administer, or give away, or attempts to
22 import into this state or transport (1) any controlled substance specified in subdivision
(b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in
23 paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in
subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
24 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a
narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist,
25 or veterinarian licensed to practice in this state, shall be punished by imprisonment in
the state prison for three, four, or five years.

26 (b) Notwithstanding the penalty provisions of subdivision (a), any person who
27 transports for sale any controlled substances specified in subdivision (a) within this
state from one county to another noncontiguous county shall be punished by
28 imprisonment in the state prison for three, six, or nine years.

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REGULATORY PROVISIONS

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

(a) All pharmacies (except hospital inpatient pharmacies as defined by Business and Professions Code section 4029 which solely or predominantly furnish drugs to inpatients of the hospital) shall contain an area which is suitable for confidential patient counseling.

(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.

20. Regulations, section 1717.4 states:

(a) Except as otherwise prohibited by law, prescriptions may be transmitted by electronic means from the prescriber to the pharmacy.

(b) An electronically transmitted prescription which meets the requirements of this regulation shall be deemed to be a prescription within the meaning of Business and Professions Code section 4040.

(c) An electronically transmitted prescription order shall include the name and address of the prescriber, a telephone number for oral confirmation, date of transmission and the identity of the recipient, as well as any other information required by federal or state law or regulations. The prescriber's address, license classification and federal registry number may be omitted if they are on file and readily retrievable in the receiving pharmacy.

(d) An "interim storage device" means an electronic file into which a prescription is entered for later retrieval by an authorized individual. Any interim storage device shall, in addition to the above information, record and maintain the date of entry and/or receipt of the prescription order, date of transmission from the interim storage device and identity of the recipient of such transmission. The interim storage device shall be maintained so as to ensure against unauthorized access and use of prescription information, including dispensing information.

(e) A pharmacy receiving an electronic image transmission prescription shall either receive the prescription in hard copy form or have the capacity to retrieve a hard copy facsimile of the prescription from the pharmacy's computer memory. Any hard copy of a prescription shall be maintained on paper of permanent quality.

(f) An electronically transmitted prescription shall be transmitted only to the pharmacy of the patient's choice. This requirement shall not apply to orders for

1 medications to be administered in an acute care hospital.

2 (g) Electronic equipment for transmitting prescriptions (or electronic transmittal
3 technology) shall not be supplied or used so as to violate or circumvent Business and
4 Professions Code section 4000 et seq., Health and Safety Code section 11150 et seq.,
5 or any regulations of the board.

6 (h) Any person who transmits, maintains or receives any prescription or
7 prescription refill, orally, in writing or electronically, shall ensure the security,
8 integrity, authenticity, and confidentiality of the prescription and any information
9 contained therein.

10 21. Regulations, section 1718 states:

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

17 **COST RECOVERY**

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

22 **FACTS**

23 23. On March 6, 2008, Drug Enforcement Administration (DEA) and Federal Bureau of
24 Investigation (FBI) agents simultaneously served federal search warrants at White Cross
25 Pharmacy, Park Blvd. Pharmacy, and Galloway Pharmacy in San Diego after a two-year
26 investigation into controlled substance diversion from the three pharmacies. From September 17,
27 2007, through May 28, 2008, Respondent was Pharmacist-in-Charge (PIC) at White Cross
28 Pharmacy, and from June 19, 2001, through September 17, 2007, PIC at Park Blvd. Pharmacy.
The agents also served federal search and arrest warrants on Respondent Hnaino at his residence.

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

30 a. Printouts of the tabulations and summary of White Cross's purchases of
31 Hydrocodone 5/500, Hydrocodone 10/325, and Oxycodone 80, show White Cross purchased
32

1 600,800 tablets of Hydrocodone 5/500; 139,700 tablets of Hydrocodone 10/325; and 27,100
2 tablets of Oxycodone 80 from February 7, 2005, through March 6, 2008.

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

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

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

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

14 a. Printouts of the tabulations and summary of Park's purchases of Hydrocodone
15 5/500, Hydrocodone 10/325 and Oxycodone 80, show Park purchased 634,200 tablets of
16 Hydrocodone 5/500; 278,000 tablets of Hydrocodone 10/325; and 44,900 tablets of Oxycodone
17 80.1 from April 11, 2005 to March 6, 2008.

18 b. The DEA Biennial Inventory of April 11, 2005 shows 698 tablets of Oxycodone
19 80; 7,500 tablets of Hydrocodone 5/500; and 2,000 tablets of Hydrocodone 10/325; and a closing
20 inventory (stock on hand) of 1,789 tablets of Oxycodone 80; 3,649 tablets of Hydrocodone 5/500;
21 and 4,347 tablets of Hydrocodone 10/325.

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

24 26. In addition to the information obtained pursuant to the search warrants, on or about
25 May 20, 2009, the Board's Investigator noted that in filling the following prescriptions while PIC
26 at Park Blvd., Respondent violated pharmacy laws as follows:
27
28

1 a. #N0396971, dated June 7, 2005: Respondent filled or allowed to be filled for
2 patient B.V. a faxed prescription for Concerta 27 SR, Schedule II, without an original
3 prescription, in violation of H&S Code, section 11164, subdivision (b)(1);

4 b. #C0431111, dated October 24, 2005: Respondent filled or allowed to be filled for
5 patient E.H. a prescription for Ambien 10mg; #0431115, a prescription for Gabapentin; and an
6 unreadable prescription for Furosemide 80mg, despite their being transferred to the pharmacy
7 incorrectly, in violation of Regulations, section 1717(e);

8 c. #N0464698, dated March 9, 2006: Respondent filled or allowed to be filled for
9 patient J.D., a prescription for MS IR 30mg, despite being faxed from the patient, in violation of
10 Regulations, section 1717.4 (a) and H&S Code, section 11164, subdivision (b)(1);

11 d. # N0481533, dated May 12, 2006: Respondent filled or allowed to be filled for
12 patient G.R. a prescription for Oxycodone 40mg, and Rx 48153, Prevacid 30mg, despite being
13 faxed from the patient, in violation of Regulations, section 1717.4 (a) and H&S Code, section
14 11164, subdivision (b)(1);

15 e. #C395240, dated May 31, 2005: Respondent filled or allowed to be filled for
16 patient C.N. a prescription for Androjel, which was not written on a security form, in violation of
17 H&S Code, section 11164, subdivision (a);

18 f. #C0482203, dated May 16, 2006: Respondent filled or allowed to be filled for
19 patient J.M. a prescription for Tylenol #3, which was not written on a security form, in violation
20 of H&S Code, section 11164, subdivision (a); and

21 g. #C0483377, dated May 22, 2006: Respondent filled or allowed to be filled for
22 patient N.K. a prescription for Marinol 2.5, though it did not indicate whether it was a transfer
23 from another pharmacy or authorization from doctor's office, in violation of H&S Code, section
24 11158, subdivision (a).

25 27. On June 5, 2008, in a criminal proceeding entitled, *United States of America vs.*
26 *Ahmad H. Hnaino*, in the United States District Court, Southern District of California, Case No.
27 3:08-cr-01012-JAH, Respondent pled guilty to two felony counts contained in an April 3, 2008
28 Information which charged him with violating Title 21, United States Code, section 841(a)(1),

1 knowingly and intentionally distributing approximately 38.16 grams of Oxycodone, a Schedule II
2 Controlled Substance; and knowingly and intentionally distributing approximately 6,000
3 Hydrocodone Bitartrate tablets, a Schedule III Controlled Substance, on or about February 29,
4 2008, crimes that are substantially related to the qualifications, functions, and duties of a
5 pharmacist.

6 28. Pursuant to the June 5, 2008 Plea Agreement between the United States and
7 Respondent, Respondent agreed to forfeit \$27,500, and pay a \$200 special assessment to the
8 United States. Respondent also understood that the crimes to which he pled guilty carry the
9 following penalties:

10 Count 1: Distribution of Oxycodone

11 A. A maximum term of imprisonment of 20 years;

12 B. A maximum fine of \$1,000,000;

13 C. A mandatory special assessment of \$100; and

14 D. A Term of supervised release of at least 3 and not more than 5 years.

15 Count 2: Distribution of Hydrocodone bitartrate

16 A. A maximum term of imprisonment of 5 years;

17 B. A maximum fine of \$250,000;

18 C. A mandatory special assessment of \$100; and

19 D. A term of supervised release of a least 2 and not more than 5 years

20 29. On March 5, 2012, Respondent was sentenced to four years concurrent probation for
21 Counts 1 and 2 of the Information; assessed a \$100 penalty for each count; and in addition to the
22 standard conditions of supervision, specifically ordered not to commit another federal, state, or
23 local crime; not illegally possess and refrain from any unlawful use of a controlled substance; and
24 to submit to periodic drug testing.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(June 5, 2008 Conviction for Distribution of Controlled Substances on February 29, 2008)**

27 30. Respondent is subject to disciplinary action under Code sections 490 and 4301,
28 subdivision (l), on the grounds that he was convicted of a crime substantially related to his
qualifications, functions and duties as a registered pharmacist, as detailed in paragraphs 23—29.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Illegally Distributing Controlled Substances)**

3 31. Respondent has subjected his license to disciplinary action under sections 4301,
4 subdivision (j) and (o), in that he furnished controlled substances without a prescription therefor,
5 in violation of section 4059, subdivision (a), of the Code, and section 11352, subdivision (a) of
6 the H&S Code, as detailed in paragraphs 23—29.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct: Dishonesty, Deceit & Corruption)**

9 32. Respondent has subjected his license to disciplinary action under Code section 4301,
10 subdivision (f) for engaging in acts involving moral turpitude, dishonesty, fraud, deceit, or
11 corruption, as detailed in paragraphs 23—29.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct: Violating Statutes Governing Practice of Pharmacy)**

14 33. Respondent has subjected his license to disciplinary action under Code section 4301,
15 subdivision (o) for violating and attempting to violate, assisting in the violation of, and conspiring
16 to violate state and federal laws and regulations governing the practice of pharmacy, while PIC at
17 White Cross and Park Blvd., as detailed in paragraphs 23—29 as follows:

18 a. Respondent failed to maintain all records of acquisition and disposition to be
19 open for inspection for a period of three years, and to keep a current inventory showing
20 accountability for all dangerous drugs, with resulting shortages, in violation of Code, sections
21 4081, subdivision (a), and of Regulations, section 1718.

22 b. Respondent failed to maintain the pharmacies so that dangerous drugs were
23 properly secured and distributed while PIC of White Cross and Park Blvd., with resulting
24 shortages, in violation of Regulations, section 1714.

25 c. Respondent filled or allowed to be filled three Schedule II controlled substance
26 prescriptions for patients B.V., J.D., and G.R., based on faxes while PIC of Park Blvd., in
27 violation of H&S Code, section 11164, subdivision (b)(1), and Regulations, section 1717.4,
28 subdivision (a).

1 d. Respondent improperly transferred three prescriptions for patient E.H. without
2 proper documentation while PIC of Park Blvd., in violation of Regulations, section 1717,
3 subdivision (e).

4 e. Respondent improperly filled or allowed to be filled prescriptions for patients
5 C.N. and J.M., not written on a security form, while PIC at Park Blvd., in violation of H&S Code,
6 section 11164, subdivision (a)(1).

7 f. Respondent improperly filled or allowed to be filled a prescription for patient
8 N.K., without indicating it was a prescription transferred from another pharmacy or authorized by
9 a doctor's office, while PIC at Park Blvd., in violation of H&S Code, section 11158, subdivision
10 (a).

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Unlawful Possession of Controlled Substances)**

13 34. Respondent has subjected his license to disciplinary action under sections 4301,
14 subdivision (j) and (o), in that he unlawfully possessed controlled substances in violation of
15 section 4060, of the Code, and section 11350, subdivision (a) of the H&S Code, as detailed in
16 paragraphs 23—29.

17 **PRAYER**

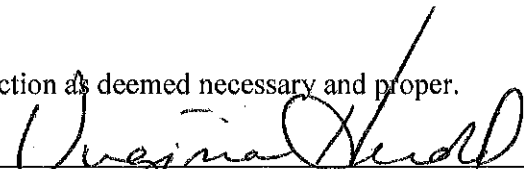
18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Pharmacy issue a decision:

20 1. Revoking or suspending Original Pharmacist License Number RPH 50026, issued to
21 Ahmad H. Hnaino, RPH;

22 2. Ordering Ahmad H. Hnaino to pay the Board of Pharmacy the reasonable costs of the
23 investigation and enforcement of this case, pursuant to Business and Professions Code section
24 125.3; and

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

26 DATED: 10/8/12

27 
28 VIRGINIA HEROLD
Executive Officer, Board of Pharmacy
California Department of Consumer Affairs
Complainant