

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

In the Matter of the Accusation Against:

**KEVIN HWU**

1650 Wilson Ave.  
Arcadia, CA 91006

Pharmacist License No. RPH 66240

Respondent.

Case No. 6150

**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 February 12, 2020.

It is so ORDERED on January 13, 2020.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

Greg Lippe  
Board President

1 XAVIER BECERRA  
Attorney General of California  
2 LINDA L. SUN  
Supervising Deputy Attorney General  
3 KATHERINE MESSANA BECK  
Deputy Attorney General  
4 State Bar No. 272953  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6311  
6 Facsimile: (916) 731-2126  
*Attorneys for Complainant*  
7

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

12 In the Matter of the Accusation Against:

Case No. 6150

13 **KEVIN HWU**  
14 1650 Wilson Ave.  
Arcadia, CA 91006

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 Pharmacist License No. RPH 66240

16 Respondent.  
17

18  
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
20 interest and the responsibility of the Board of Pharmacy (Board) of the Department of Consumer  
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order  
22 which will be submitted to the Board for approval and adoption as the final disposition of the  
23 Accusation.

24 **PARTIES**

25 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board. She  
26 brought this action solely in her official capacity and is represented in this matter by Xavier  
27 Becerra, Attorney General of the State of California, by Katherine Messana Beck, Deputy  
28 Attorney General.

2. Respondent Kevin Hwu (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about October 13, 2011, the Board issued Pharmacist License No. RPH 66240 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 6150, and will expire on March 31, 2021, unless renewed.

### **JURISDICTION**

4. Accusation No. 6150 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 1, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 6150 is attached as **Exhibit A** and incorporated herein by reference.

### **ADVISEMENT AND WAIVERS**

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 6150. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

### **CULPABILITY**

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 6150.

10. Respondent agrees that his Pharmacist License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

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

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 66240 issued to Respondent Kevin Hwu is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions.

1           **1.     Obey All Laws**

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

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

- 5           • an arrest or issuance of a criminal complaint for violation of any provision of the  
6                 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
7                 substances laws
- 8           • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal  
9                 criminal proceeding to any criminal complaint, information or indictment
- 10          • a conviction of any crime
- 11          • the filing of a disciplinary pleading, issuance of a citation, or initiation of another  
12                 administrative action filed by any state or federal agency which involves  
13                 respondent's license or which is related to the practice of pharmacy or the  
14                 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,  
15                 device or controlled substance.

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

17           **2.     Report to the Board**

18          Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
19          designee. The report shall be made either in person or in writing, as directed. Among other  
20          requirements, respondent shall state in each report under penalty of perjury whether there has  
21          been compliance with all the terms and conditions of probation.

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

27          ///

28          ///

1           **3. Interview with the Board**

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

7           **4. Cooperate with Board Staff**

8           Respondent shall timely cooperate with the board's inspection program and with the board's  
9 monitoring and investigation of respondent's compliance with the terms and conditions of his  
10 probation, including but not limited to: timely responses to requests for information by board  
11 staff; timely compliance with directives from board staff regarding requirements of any term or  
12 condition of probation; and timely completion of documentation pertaining to a term or condition  
13 of probation. Failure to timely cooperate shall be considered a violation of probation.

14           **5. Continuing Education**

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

17           **6. Reporting of Employment and Notice to Employers**

18           During the period of probation, respondent shall notify all present and prospective  
19 employers of the decision in case number 6150 and the terms, conditions and restrictions imposed  
20 on respondent by the decision, as follows:

21           Within thirty (30) days of the effective date of this decision, and within ten (10) days of  
22 undertaking any new employment, respondent shall report to the board in writing the name,  
23 physical address, and mailing address of each of his employer(s), and the name(s) and telephone  
24 number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in- charge, designated  
25 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work  
26 schedule, if known. Respondent shall also include the reason(s) for leaving the prior  
27 employment. Respondent shall sign and return to the board a written consent authorizing the  
28 board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and

1 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,  
2 concerning respondent's work status, performance, and monitoring. Failure to comply with the  
3 requirements or deadlines of this condition shall be considered a violation of probation.

4       Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
5 respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b)  
6 his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other  
7 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the  
8 board in writing acknowledging that the listed individual(s) has/have read the decision in case  
9 number 6150, and terms and conditions imposed thereby. If one person serves in more than one  
10 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's  
11 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the  
12 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term  
13 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in  
14 writing within fifteen (15) days of the change acknowledging that he or she has read the decision  
15 in case number 6150, and the terms and conditions imposed thereby.

16       If respondent works for or is employed by or through an employment service, respondent  
17 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board  
18 of the decision in case number 6150, and the terms and conditions imposed thereby in advance of  
19 respondent commencing work at such licensed entity. A record of this notification must be  
20 provided to the board upon request.

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

27       Failure to timely notify present or prospective employer(s) or failure to cause the identified  
28 person(s) with that/those employer(s) to submit timely written acknowledgments to the board

shall be considered a violation of probation.

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

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

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

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

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

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge, designated representative-in-charge, responsible manager or other compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

**9. Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$7,500.00. Respondent shall make said payments as follows:

There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

Respondent shall be permitted to pay these costs in a payment plan approved by the board or its designee, so long as full payment is paid in full prior to the completion of probation.

**10. Probation Monitoring Costs**

Respondent shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as



1 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
2 be considered a violation of probation.

3 **11. Status of License**

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

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

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

13 Following the effective date of this decision, should respondent cease practice due to  
14 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
15 respondent may relinquish his license, including any indicia of licensure issued by the board,  
16 along with a request to surrender the license. The board or its designee shall have the discretion  
17 whether to accept the surrender or take any other action it deems appropriate and reasonable.  
18 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to  
19 the terms and conditions of probation. This surrender constitutes a record of discipline and shall  
20 become a part of the respondent's license history with the board.

21 Upon acceptance of the surrender, respondent shall relinquish his pocket and/or wall  
22 license, including any indicia of licensure not previously provided to the board within ten (10)  
23 days of notification by the board that the surrender is accepted if not already provided.  
24 Respondent may not reapply for any license from the board for three (3) years from the effective  
25 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
26 of the date the application for that license is submitted to the board, including any outstanding  
27 costs.

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

2           Except during periods of suspension, respondent shall, at all times while on probation, be  
3 employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any  
4 month during which this minimum is not met shall extend the period of probation by one month.  
5 During any such period of insufficient employment, respondent must nonetheless comply with all  
6 terms and conditions of probation, unless respondent receives a waiver in writing from the board  
7 or its designee.

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

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

21           **14. Violation of Probation**

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

28           If respondent violates probation in any respect, the board, after giving respondent notice

1 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
2 was stayed. If a petition to revoke probation or an accusation is filed against respondent during  
3 probation, or the preparation of an accusation or petition to revoke probation is requested from  
4 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of  
5 probation shall be automatically extended until the petition to revoke probation or accusation is  
6 heard and decided.

7 **15. Completion of Probation**

8 Upon written notice by the board or its designee indicating successful completion of  
9 probation, respondent's license will be fully restored.

10 **16. Remedial Education**

11 Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
12 board or its designee, for prior approval, an appropriate program of remedial education related to  
13 the role of a PIC, prescription requirements, safe prescribing/dispensing, and pharmacy law  
14 related to dispensing. The program of remedial education shall consist of at least 10 hours per  
15 year (50% of which must be in-person or live on-line webinar and which shall be completed  
16 within 3 months of the completion of probation) at respondent's own expense. All remedial  
17 education shall be in addition to, and shall not be credited toward, continuing education (CE)  
18 courses used for license renewal purposes for pharmacists.

19 Failure to timely submit for approval or complete the approved remedial education shall be  
20 considered a violation of probation. The period of probation will be automatically extended until  
21 such remedial education is successfully completed and written proof, in a form acceptable to the  
22 board, is provided to the board or its designee.

23 Following the completion of each course, the board or its designee may require the  
24 respondent, at his own expense, to take an approved examination to test the respondent's  
25 knowledge of the course. If the respondent does not achieve a passing score on the examination  
26 that course shall not count towards satisfaction of this term. Respondent shall take another course  
27 approved by the board in the same subject area.

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1           **17. Ethics Course**

2           Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll  
3 in a course in ethics, at respondent's expense, approved in advance by the board or its designee  
4 that complies with Title 16 California Code of Regulations section 1773.5. Respondent shall  
5 provide proof of enrollment upon request. Within five (5) days of completion, respondent shall  
6 submit a copy of the certificate of completion to the board or its designee. Failure to timely enroll  
7 in an approved ethics course, to initiate the course during the first year of probation, to  
8 successfully complete it before the end of the second year of probation, or to timely submit proof  
9 of completion to the board or its designee, shall be considered a violation of probation.

10           **18. No Ownership or Management of Licensed Premises**

11           Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,  
12 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
13 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
14 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
15 days following the effective date of this decision and shall immediately thereafter provide written  
16 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
17 documentation thereof shall be considered a violation of probation.

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1 ACCEPTANCE

2 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
3 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated  
4 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
5 bound by the Decision and Order of the Board of Pharmacy.

6  
7 DATED: 9/26/19

  
8 KEVIN HWU  
9 Respondent


10 ENDORSEMENT

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

13  
14 DATED: 10/9/19

Respectfully submitted,

15 XAVIER BECERRA  
16 Attorney General of California  
17 LINDA L. SUN  
18 Supervising Deputy Attorney General

  
19 KATHERINE MESSANA BECK  
20 Deputy Attorney General  
21 Attorneys for Complainant

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**Exhibit A**

**Accusation No. 6150**

1 XAVIER BECERRA  
Attorney General of California  
2 LINDA L. SUN  
Supervising Deputy Attorney General  
3 KATHERINE MESSANA BECK  
Deputy Attorney General  
4 State Bar No. 272953  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6311  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
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14 1650 Wilson Ave.  
Arcadia, CA 91006

**ACCUSATION**

15 Pharmacist License No. RPH 66240

16 Respondent.  
17

18  
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about October 13, 2011, the Board issued Pharmacist License Number RPH  
25 66240 to Kevin Hwu (Respondent). The Pharmacist License was in full force and effect at all  
26 times relevant to the charges brought herein and will expire on March 31, 2021, unless renewed.

27 ///

28 ///

## **JURISDICTION AND STATUTORY PROVISIONS**

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

4. Section 4300 of the Code states:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

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

(1) Medical or psychiatric evaluation.

(2) Continuing medical or psychiatric treatment.

(3) Restriction of type or circumstances of practice.

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

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

(6) Random fluid testing for alcohol or drugs.

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

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



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

6  
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8  
9 5. Section 4300.1 of the Code states:

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

16  
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18  
19 6. Section 4301 of the Code provides, in pertinent part:

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

23 ...

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

27 ...

28 (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.

7. Health and Safety Code section 11170 states:

No person shall prescribe, administer, or furnish a controlled substance  
for himself.

### **REGULATORY PROVISIONS**

8. California Code of Regulations, title 16, section 1761 provides, in pertinent part:

(a) No pharmacist shall compound or dispense any prescription which  
contains any significant error, omission, irregularity, uncertainty,  
ambiguity or alteration. Upon receipt of any such prescription, the

pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.

9. California Code of Regulations, title 16, section 1714 provides, 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.

### **COST RECOVERY**

10. Section 125.3 of the Code provides, 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be

### **FIRST CAUSE FOR DISCIPLINE**

#### **(Furnished Controlled Substance for Self)**

11. Respondent is subject to disciplinary action under section 4301, subdivision (j) in that Respondent violated Health and Safety Code section 11170 when he prescribed, administered, or furnished controlled substances for himself. Specifically, while Respondent was employed at CVS#6582, he processed the following prescriptions for controlled substances for himself:

Date	Prescription Number	Drug	RPH Verified/Dispensed Date/Time
10/28/14	240632	Amphetamine <sup>1</sup> 5mg	KH 10/28/14 at 1654
1/12/15	245842	Amphetamine 10mg	KH 1/12/15 at 1602
4/9/15	243444 (refill)	Promethazine/Codeine Syrup <sup>2</sup>	KH 4/9/15 at 1136
9/17/15	264003	Zolpidem <sup>3</sup> 10mg	KH 9/17/15 at 1345
1/12/16	273068	Amphetamine 10mg	KH 1/12/16 at 1708
2/7/16	275162	Amphetamine 10mg	KH 2/7/16 at 1041
6/20/16	286109	Amphetamine 10mg	KH 6/20/16 at 1240

<sup>1</sup> Amphetamine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055 and is categorized as a dangerous drug pursuant to section 4022 of the Code.

<sup>2</sup> Promethazine/codeine syrup is a schedule V controlled substance pursuant to Health and Safety Code section 11058(c)(1) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

<sup>3</sup> Zolpidem is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057 and is categorized as a dangerous drug pursuant to section 4022 of the Code.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Possession of Drugs Obtained Through Uncertain Prescription)**

3 12. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the  
4 Code in that Respondent violated California Code of Regulations, title 16, section 1761,  
5 subdivision (a) when he compounded or dispensed a prescription, which contains any significant  
6 error, omission, irregularity, uncertainty, ambiguity or alteration. Specifically, on or about  
7 1/10/15, while Respondent was employed at CVS#6582, he enabled an ambiguous prescription  
8 (RX No. 628405; Z-Pak + 3 refills) for himself to be filled at CVS#9689. The DEA and  
9 telephone numbers on the prescription did not match the prescribing doctor. The prescription was  
10 transferred to CVS#9721 and was dispensed again on 1/24/15. The prescription was transferred  
11 to CVS#6582 and was dispensed a third time on 4/9/15.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Operational Standards and Security)**

14 13. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the  
15 Code in that Respondent violated California Code of Regulations, title 16, section 1714,  
16 subdivision (b) when Respondent took Azithromycin 250mg (2 tablets) off the shelf without  
17 paying for the medication.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct: Act Involving Dishonesty)**

20 14. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the  
21 Code in that Respondent committed acts involving dishonesty when he took Azithromycin 250mg  
22 (2 tablets) off the shelf without paying for the medication.

23 15. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the  
24 Code in that Respondent committed acts involving dishonesty when he processed prescriptions  
25 for himself. The conduct is described in more particularity in paragraph 11 above, inclusive, and  
26 hereby incorporated by reference.

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**DISCIPLINARY CONSIDERATION**

16. To determine the degree of discipline (if any) to be imposed on Respondent, Complainant alleges the following:

17. On or about November 21, 2013, the Board issued Citation No. CI 2012 56187 to Respondent. The citation alleged that Respondent violated sections 4301, subdivisions (h) and (l) of the Code when, on March 18, 2013, Respondent was arrested for suspicion of driving under the influence of alcohol, and on October 11, 2013, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23153, subdivision (b). The citation fined Respondent \$1,500.00 for this violation. Respondent complied with the citation.

18. On or about July 15, 2016, the Board issued Citation No. CI 2015 69585 to Respondent. The citation alleged that Respondent violated section 4301, subdivision (g) of the Code in that he falsely represented a statement of facts on a renewal application when he represented that he completed 30 hours of CE during the two years preceding March 31, 2015. The citation also alleged that Respondent violated section 4231, subdivision (d) of the Code and California Code of Regulations, title 16, section 1732.5 in that Respondent failed to provide documentation substantiating the completion of 30 hours of continuing education (CE) required for renewal during the two years preceding March 31, 2015. The citation fined Respondent \$200.00 for this violation. Respondent complied with the citation and subsequently satisfied the CE deficiency.

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**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 Pharmacist License Number RPH 66240, issued to Kevin Hwu;
2. Ordering Kevin Hwu 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: June 25, 2019



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

LA2017604528