

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

In the Matter of the Accusation Against:

OLYMPIA PHARMACY

Pharmacy Permit No. PHY 43876; and

CHUL KYU PARK

Pharmacist License No. RPH 42196,

Respondents

Agency Case No. 6285

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 at 5:00 p.m. on June 18, 2020.

It is so ORDERED on May 19, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", is written over a horizontal line.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 MATTHEW A. KING
Deputy Attorney General
4 State Bar No. 265691
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 6285

12 **OLYMPIA PHARMACY**
3323 West Olympia Blvd.
13 Los Angeles, CA 90019

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Pharmacy Permit No. PHY 43876**

15 And

16 **CHUL KYU PARK**
7539 Carmenita Lane
17 West Hills, CA 91304

18 **Pharmacist License No. RPH 42196**

19 Respondents.

20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
25 (Board). She brought this action solely in her official capacity and is represented in this matter by
26 Xavier Becerra, Attorney General of the State of California, by Matthew A. King, Deputy
27 Attorney General.

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2. Respondents Olympia Pharmacy and Chul Kyu Park are represented in this proceeding by attorney Tony J. Park, California Pharmacy Lawyers, whose address is: 49 Discovery, Suite 240, Irvine, CA 92618-6713.

A. Olympia Pharmacy

3. On or about November 5, 1998, the Board issued Pharmacy Permit Number PHY 43876 to Olympia Pharmacy (Respondent Olympia Pharmacy). The Pharmacy Permit expired on October 31, 2016, and was cancelled. At all times relevant to the charges brought herein, Chul Kyu Park (Respondent Park) was the Pharmacist-in-Charge.

B. Chul Kyu Park

4. On or about October 12, 1988, the Board of Pharmacy issued Pharmacist License Number RPH 42196 to Chul Kyu Park (Respondent Park). The Pharmacist License expired on November 30, 2016, and was cancelled.

JURISDICTION

5. Accusation No. 6285 was filed before the Board, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on January 22, 2020. Respondents timely filed their Notice of Defense contesting the Accusation. A copy of Accusation No. 6285 is attached as exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

6. Respondents have carefully read, and understands the charges and allegations in Accusation No. 6285. Respondents also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

7. Respondents are fully aware of their 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 their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their 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. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

9. Respondents admit the truth of each and every charge and allegation in Accusation No. 6285, agree that cause exists for discipline and hereby surrender Pharmacy Permit No. PHY 43876 and Pharmacist License No. RPH 42196 for the Board's formal acceptance.

10. Respondents understand that by signing this stipulation they enable the Board to issue an order accepting the surrender of their Pharmacy Permit and Pharmacist License without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondents understand and agree that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondents. By signing the stipulation, Respondents understand and agree that they may not withdraw their 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 Surrender 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 Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Surrender of License and 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 Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing

1 executed by an authorized representative of each of the parties.

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

4 **ORDER**

5 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 43876, issued to Respondent
6 Olympia Pharmacy, and Pharmacist License No. RPH 42196, issued to Respondent Chul Kyu
7 Park, are surrendered and accepted by the Board.

8 1. The surrender of Respondents' Pharmacist Permit and Pharmacist License and the
9 acceptance of the surrendered licenses by the Board shall constitute the imposition of discipline
10 against Respondents. This stipulation constitutes a record of the discipline and shall become a
11 part of Respondents' license history with the Board.

12 2. Respondents shall lose all rights and privileges as a Pharmacy and Pharmacist,
13 respectively, in California as of the effective date of the Board's Decision and Order.

14 3. Respondents shall cause to be delivered to the Board their pocket license and, if one
15 was issued, their wall certificate on or before the effective date of the Decision and Order.

16 4. If Respondents ever apply for licensure or petition for reinstatement in the State of
17 California, the Board shall treat it as a new application for licensure. Respondents must comply
18 with all the laws, regulations and procedures for licensure in effect at the time the application or
19 petition is filed, and all of the charges and allegations contained in Accusation No. 6285 shall be
20 deemed to be true, correct and admitted by Respondents when the Board determines whether to
21 grant or deny the application or petition.

22 5. Respondents shall pay the agency its costs of investigation and enforcement in the
23 amount of \$19,862.75 prior to the issuance of a new or reinstated license.

24 6. If Respondents should ever apply or reapply for a new license or certification, or
25 petition for reinstatement of a license, by any other health care licensing agency in the State of
26 California, all of the charges and allegations contained in Accusation No. 6285 shall be deemed to
27 be true, correct and admitted by Respondents for the purpose of any Statement of Issues or any
28 other proceeding seeking to deny or restrict licensure.

7. Respondents may not apply for any license or petition for reinstatement for three years from the effective date of the Board's Decision and Order.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order and have carefully discussed it with my attorney. I understand the stipulation and the effect it will have on my Pharmacy Permit and Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

CHULY KYU PARK
For OLYMPIA PHARMACY
Respondent

DATED:

CHUL KYU PARK
Respondent

I have read and fully discussed with Respondents the terms and conditions and other matters contained in the above Stipulated Surrender of License and Order. I approve its form and content.

DATED:

Tony J. Park
California Pharmacy Lawyers
Attorney for Respondents

///

///

7. Respondents may not apply for any license or petition for reinstatement for three years from the effective date of the Board's Decision and Order.

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DATED:

03/31/20



CHUL KYU PARK
For OLYMPIA PHARMACY
Respondent

DATED:

03/31/20



CHUL KYU PARK
Respondent

I have read and fully discussed with Respondents the terms and conditions and other matters contained in the above Stipulated Surrender of License and Order. I approve its form and content.

DATED:

Tony J. Park
California Pharmacy Lawyers
Attorney for Respondents

///

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order and have carefully discussed it with my attorney. I understand the stipulation and the effect it will have on my Pharmacy Permit and Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

CHULY KYU PARK
For OLYMPIA PHARMACY
Respondent

DATED:

CHUL KYU PARK
Respondent

I have read and fully discussed with Respondents the terms and conditions and other matters contained in the above Stipulated Surrender of License and Order. I approve its form and content.

DATED: 03/31/2020

Tony J. Park
California Pharmacy Lawyers
Attorney for Respondents

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ENDORSEMENT

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

DATED: April 1, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
SHAWN P. COOK
Supervising Deputy Attorney General

MATTHEW A. KING
Deputy Attorney General
Attorneys for Complainant

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54147667
Jz(2/25/20)

Exhibit A

Accusation No. 6285

1 XAVIER BECERRA
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7 *Attorneys for Complainant*

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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

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13 **OLYMPIA PHARMACY**
3323 West Olympia Blvd.
14 Los Angeles, CA 90019

A C C U S A T I O N

15 **Pharmacy Permit No. PHY 43876**

16 And

17 **CHUL KYU PARK**
7539 Carmenita Lane
18 West Hills, CA 91304

19 **Pharmacist License No. RPH 42196**

20 Respondents.

21
22 **PARTIES**

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

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7. Section 4300 of the Code, subdivision (a), states that “[e]very license issued may be suspended or revoked.”

8. Section 4300.1 of the Code states:

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

STATUTORY PROVISIONS

9. 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.

10. Section 4036.5 of the Code states:

‘Pharmacist-in-charge’ means a pharmacist proposed by a pharmacy and approved by the board as the supervisor or manager responsible for ensuring the pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

11. Section 4037, subdivision (a), of the Code states:

‘Pharmacy’ means an area, place, or premises licensed by the board in which the profession of pharmacy is practiced and where prescriptions are compounded.

dangerous devices are stored, possessed, prepared, manufactured, derived, compounded, or repackaged, and from which the controlled substances, dangerous drugs, or dangerous devices are furnished, sold, or dispensed at retail.

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12. Section 4081, subdivision (a), of the Code states:

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.

13. Section 4104, subdivision (b), of the Code states:

Every pharmacy shall have written policies and procedures for addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with the pharmacy.

14. Section 4113, subdivision (c), of the Code states:

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.

15. 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 includes, 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 [Chapter 9: the Pharmacy Law] 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.

16. Code section 4307 states:

(a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of any partnership, corporation, trust, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control had knowledge of or knowingly participated in any conduct for which the license was

denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee as follows:

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

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

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

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

17. Health and Safety Code section 111335 provides that any drug or device is misbranded if its labeling or packaging does not conform to the requirements of Chapter 4 (commencing with Section 110290).

18. Health and Safety Code section 111400 states:

Any drug or device is misbranded if it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in its labeling.

19. Health and Safety Code section 111440 states:

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded.

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REGULATORY PROVISIONS

20. California Code of Regulations, title 16, section 1707.5, subdivision (d), states:

(d) The pharmacy shall have policies and procedures in place to help patients with limited or no English proficiency understand the information on the label as specified in subdivision (a) in the patient's language. The pharmacy's policies and procedures shall be specified in writing and shall include, at minimum, the selected means to identify the patient's language and to provide interpretive services and translation services in the patient's language. The pharmacy shall, at minimum, provide interpretive services in the patient's language, if interpretive services in such language are available, during all hours that the pharmacy is open, either in person by pharmacy staff or by use of a third-party interpretive service available by telephone at or adjacent to the pharmacy counter.

21. California Code of Regulations, title 16, section 1708.2 states:

Any permit holder shall contact the board prior to transferring or selling any dangerous drugs, devices or hypodermics inventory as a result of termination of business or bankruptcy proceedings and shall follow official instructions given by the board applicable to the transaction.

22. California Code of Regulations, title 16, section 1714, subdivision (c), states:

The pharmacy and fixtures and equipment shall be maintained in a clean and orderly condition. The pharmacy shall be dry, well-ventilated, free from rodents and insects, and properly lighted. The pharmacy shall be equipped with a sink with hot and cold running water for pharmaceutical purposes.

23. California Code of Regulations, title 16, section 1715 states:

(a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or section 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy's compliance with federal and state pharmacy law. The assessment shall be performed before July 1 of every odd-numbered year. The primary purpose of the self-assessment is to promote compliance through self-examination and education.

(b) In addition to the self-assessment required in subdivision (a) of this section, the pharmacist-in-charge shall complete a self-assessment within 30 days whenever:

(1) A new pharmacy permit has been issued, or

(2) There is a change in the pharmacist-in-charge, and he or she becomes the new pharmacist-in-charge of a pharmacy.

(3) There is a change in the licensed location of a pharmacy to a new address.

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1 (c) The components of this assessment shall be on Form 17M-13 (Rev. 10/14)
2 entitled "Community Pharmacy Self-Assessment Hospital Outpatient Pharmacy
3 Self-Assessment" and on Form 17M-14 (Rev. 10/14) entitled "Hospital Pharmacy
4 Self-Assessment" which are hereby incorporated by reference to evaluate compliance
5 with federal and state laws and regulations.

6 (d) Each self-assessment shall be kept on file in the pharmacy for three years
7 after it is performed.

8 24. California Code of Regulations, title 16, section 1718 states:

9 "Current Inventory" as used in Sections 4081 and 4332 of the Business and
10 Professions Code shall be considered to include complete accountability for all
11 dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

12 The controlled substances inventories required by Title 21, CFR, Section 1304
13 shall be available for inspection upon request for at least 3 years after the date of the
14 inventory.

15 25. United States Code of Federal Regulations, title 21, section 1304.11 states in
16 pertinent part:

17 (a) General requirements. Each inventory shall contain a complete and
18 accurate record of all controlled substances on hand on the date the inventory is taken,
19 and shall be maintained in written, typewritten, or printed form at the registered
20 location. An inventory taken by use of an oral recording device must be promptly
21 transcribed. Controlled substances shall be deemed to be 'on hand' if they are in the
22 possession of or under the control of the registrant, including substances returned by
23 a customer, ordered by a customer but not yet invoiced, stored in a warehouse on
24 behalf of the registrant, and substances in the possession of employees of the
25 registrant and intended for distribution as complimentary samples. A separate
26 inventory shall be made for each registered location and each independent activity
27 registered, except as provided in paragraph (e)(4) of this section. In the event
28 controlled substances in the possession or under the control of the registrant are stored
at a location for which he/she is not registered, the substances shall be included in the
inventory of the registered location to which they are subject to control or to which
the person possessing the substance is responsible. The inventory may be taken either
as of opening of business or as of the close of business on the inventory date and it
shall be indicated on the inventory.

(b) Initial inventory date. Every person required to keep records shall take an
inventory of all stocks of controlled substances on hand on the date he/she first
engages in the manufacture, distribution, or dispensing of controlled substances, in
accordance with paragraph (e) of this section as applicable. In the event a person
commences business with no controlled substances on hand, he/she shall record this
fact as the initial inventory.

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1 (c) Biennial inventory date. After the initial inventory is taken, the registrant
2 shall take a new inventory of all stocks of controlled substances on hand at least every
3 two years. The biennial inventory may be taken on any date which is within two years
4 of the previous biennial inventory date.

5 26. United States Code of Federal Regulations, title 21, section 1305.13, subdivision (e),
6 at all times relevant to the allegations brought herein stated in pertinent part:

7 The purchaser must record on Copy 3 of the DEA Form 222 the number of
8 commercial or bulk containers furnished on each item and the dates on which the
9 containers are received by the purchaser.

10 **COST RECOVERY**

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

15 **DEFINITIONS**

16 28. Creon is a trade name for pancrelipase, a combination of lipase, protease, and
17 amylase enzymes normally produced by the pancreas. Pancrelipase is indicated for patients whose
18 pancreas does not produce enough of these enzymes, including patients with cystic fibrosis,
19 chronic inflammation of the pancreas, or blockage of the pancreatic ducts. Creon is a dangerous
20 drug within the meaning of Business and Professions Code section 4022.

21 **FACTUAL ALLEGATIONS**

22 29. On or about December 14, 2015, the Board received an anonymous complaint
23 concerning Respondent Olympia Pharmacy's practice of dispensing Creon prescriptions.

24 30. On or about May 4, 2016, Board inspectors made an unannounced inspection of
25 Respondent Olympia Pharmacy.

26 31. Board inspectors observed approximately 277 types of dangerous drugs that were
27 expired and comingled with active drug stock on the pharmacy's shelves. One of these
28 prescription medications had expired on July 1, 1989, twenty-seven years before the Board's

1 inspection.

2 32. Respondent Park was instructed to search the pharmacy's shelves and return all
3 expired medicines to a reverse distributor. In total, \$78,324.22 worth of expired drugs were sent
4 for reverse distribution between July 6, 2016 and October 6, 2016.

5 33. During the Board's inspection on May 4, 2016, the pharmacy's sink faucet could not
6 produce hot water.

7 34. Respondents were asked to produce a self-assessment of the pharmacy's compliance
8 with federal and state pharmacy law, which assessment is required to be performed before July 1
9 of every odd-numbered year. The pharmacy self-assessment must be kept on file in the pharmacy
10 for three years. On May 4, 2016, during the Board's inspection, Respondents could not provide a
11 dated and completed pharmacy self-assessment.

12 35. Respondents were asked to produce a biennial inventory of all controlled substances
13 on hand at the registered location. Respondents were unable to produce the biennial inventory.

14 36. Respondents were asked to produce a completed DEA Form 222. A DEA Form 222
15 is required to be completed and maintained by the purchaser of Schedule I and II controlled
16 substances. Each DEA Form 222 must include the number of packages of Schedule I or II
17 controlled substances that were received and the date they were received. Respondents produced
18 five separate DEA Form 222 documents, listing at least one Schedule II controlled substance on
19 each form (Vicodin Tab 5/300 mg and/or hydrocodone-acetaminophen (APAP) 5/325 mg). None
20 of the forms recorded the number of packages received or when they were received. Respondent
21 Park signed all five forms. The forms were dated January 15, 2015; May 11, 2015; June 18, 2015;
22 July 27, 2015; and November 24, 2015.

23 37. During the inspection, it was discovered that the pharmacy had no written policies
24 and procedures in place for addressing chemical, mental, or physical impairment, or theft,
25 diversion or self-use of dangerous drugs by licensed individuals employed by or with the
26 pharmacy.

27 38. Respondents were asked to produce the pharmacy's policies and procedures in place
28 to help patients with limited or no English proficiency understand the information on prescription

1 drug labels in the patient's language. The pharmacy's policies and procedures were required to be
2 specified in writing and include, at a minimum, the selected means to identify the patient's
3 language and to provide interpretive services and translation services in the patient's language.
4 The pharmacy did not produce such written policies and procedures to the Board's inspectors and
5 none were in place at the time of the Board's inspection.

6 39. As part of the Board's investigation, Respondent Olympia Pharmacy's inventory of
7 Creon was audited. The audit period was October 1, 2014 through May 4, 2016. The audit
8 revealed a discrepancy between purchases and dispensing of 22,570 Creon capsules (in a strength
9 of 24,000 units) and 20,230 Creon capsules (in a strength of 36,000 units), as follows:

Capsule Strength of Creon	Purchases	Dispensing	Reverse Distributions	Transfer of Creon Capsules to or From Other Pharmacy	Discrepancy Between Purchases and Dispensing
24,000	4,700	27,270	0	0	+22,570
36,000	2,000	22,230	0	0	+20,230

15
16 40. On or about November 4, 2016, a Board inspector visited Respondent Olympia
17 Pharmacy to conduct an inspection during regular business hours. The pharmacy was closed, its
18 door locked. The Board inspector called the pharmacy and heard a recorded message stating that
19 the phone line had been disconnected and was no longer in service. The Board inspector was able
20 to see into the pharmacy through a window in the front door. The pharmacy shelves were empty
21 and nobody was inside. Respondents did not inform the Board that the pharmacy had
22 discontinued operating until on or about November 17, 2016 when they submitted a
23 Discontinuance of Business form to the Board. The form stated that an inventory of all dangerous
24 drugs was taken on October 31, 2016; that drug inventory was transferred to a licensed facility in
25 Texas; and that the records of acquisition and disposition of dangerous drugs were sent to a
26 pharmacy in Los Angeles. The Board was not provided with prior notice of the pharmacy's
27 closing.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Misbranded Drugs)**

3 **(As to Respondent Olympia Pharmacy)**

4 41. Respondent Olympia Pharmacy is subject to disciplinary action under Code section
5 4301, subdivision (j), for violating statutes regulating controlled substances and dangerous drugs,
6 in that Respondent Olympia Pharmacy held and/or offered for sale misbranded drugs, as defined
7 by Health and Safety Code sections 111335 and 111400 in violation of Health and Safety Code
8 section 111440.

9 42. On or about May 4, 2016, Respondent Olympia Pharmacy held and/or offered for sale
10 dangerous drugs that were expired (according to the manufacturer's expiration date). The expired
11 drugs were comingled with the pharmacy's active and unexpired drug stock.

12 43. Complainant realleges paragraphs 30 and 31.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Operational Standards and Security)**

15 **(As To Respondent Olympia Pharmacy)**

16 44. Respondent Olympia Pharmacy is subject to disciplinary action under Code section
17 4301, subdivision (o), for violating or attempting to violate, directly or indirectly, or assisting in
18 or abetting the violation of or conspiring to violate any provision or term of the Pharmacy Law
19 (Chapter 9 of Division 2 of the Business and Professions Code), to wit: California Code of
20 Regulations, title 16, section 1714, subdivision (c), which requires pharmacies to be equipped
21 with a sink with hot and cold running water for pharmaceutical purposes.

22 45. On or about May 4, 2016, Respondent Olympia Pharmacy's sink for pharmaceutical
23 purposes could not produce hot water.

24 46. Complainant realleges paragraphs 30 and 33.

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THIRD CAUSE FOR DISCIPLINE

(Pharmacy Self-Assessment)

(As to Respondent Olympia Pharmacy)

47. Respondent Olympia Pharmacy is subject to disciplinary action under Code section 4301, subdivision (o), for 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 the Pharmacy Law (Chapter 9 of Division 2 of the Business and Professions Code), to wit: California Code of Regulations, title 16, section 1715, subdivisions (a) and (d), which require the Pharmacist-in-Charge to complete a self-assessment of the pharmacy's compliance with federal and state pharmacy law before July 1 of every odd-numbered year.

48. On or about May 4, 2016, Respondent Olympia Pharmacy was unable to provide Board inspectors a dated and completed self-assessment because none had been prepared.

49. Complainant realleges paragraphs 30 and 34.

FOURTH CAUSE FOR DISCIPLINE

(Inventory Requirements)

(As to Respondent Olympia Pharmacy)

50. Respondent Olympia Pharmacy is subject to disciplinary action under Code section 4301, subdivision (j), for violating any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs, to wit: Code of Federal Regulations, title 21, section 1304.11, subdivision (c), which requires the taking of a controlled substance inventory every two years.

51. On or about May 4, 2016, Respondent Olympia Pharmacy was unable to produce upon demand a biennial inventory to Board inspectors because they had not prepared one.

52. Complainant realleges paragraphs 30 and 35.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Incomplete DEA Form 222)**

3 **(As to Respondent Olympia Pharmacy)**

4 53. Respondent Olympia Pharmacy is subject to disciplinary action under Code section
5 4301, subdivision (j), for violating any of the statutes of this state, of any other state, or of the
6 United States regulating controlled substances and dangerous drugs, to wit: Code of Federal
7 Regulations, title 21, section 1305.13, subdivision (e), which requires the purchaser of Schedule I
8 or II controlled substances to record on Copy 3 of the DEA Form 222 the number of commercial
9 or bulk containers furnished on each item and the dates on which the containers were received by
10 the purchaser.

11 54. On or about May 4, 2016, Respondents produced five separate DEA Form 222
12 documents to Board inspectors. Each form listed at least one Schedule II controlled substance, but
13 none of the forms recorded the number of packages received or when they were received.
14 Respondent Park signed all five forms, which were dated, respectively, January 15, 2015; May
15 11, 2015; June 18, 2015; July 27, 2015; and November 24, 2015.

16 55. Complainant realleges paragraphs 30 and 36.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(Licensed Employee, Theft or Impairment Policies and Procedures)**

19 **(As to Respondent Olympia Pharmacy)**

20 56. Respondent Olympia Pharmacy is subject to disciplinary action under Code section
21 4301, subdivision (o), for violating or attempting to violate, directly or indirectly, or assisting in
22 or abetting the violation of or conspiring to violate any provision or term of the Pharmacy Law
23 (Chapter 9 of Division 2 of the Business and Professions Code), to wit: Code section 4104,
24 subdivision (b), which requires every pharmacy to have written policies and procedures for
25 addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of
26 dangerous drugs, among licensed individuals employed by or with the pharmacy.

27 57. On or about May 4, 2016, Respondent Olympia Pharmacy was found by Board
28 inspectors to have no written policies or procedures addressing chemical, mental, or physical

1 impairment, as well as theft, diversion, or self-use of dangerous drugs, among licensed
2 individuals employed by or with the pharmacy.

3 58. Complainant realleges paragraphs 30 and 38.

4 **SEVENTH CAUSE FOR DISCIPLINE**

5 **(Patient-Centered Labels for Rx Drug Containers)**

6 **(As to Respondent Olympia Pharmacy)**

7 59. Respondent Olympia Pharmacy is subject to disciplinary action under Code section
8 4301, subdivision (o), for violating or attempting to violate, directly or indirectly, or assisting in
9 or abetting the violation of or conspiring to violate any provision or term of the Pharmacy Law
10 (Chapter 9 of Division 2 of the Business and Professions Code), to wit: California Code of
11 Regulations, title 16, section 1707.5, subdivision (d), which requires a pharmacy to have policies
12 and procedures in place to help patients with limited or no English proficiency understand the
13 information on the label in the patient's language.

14 60. On or about May 4, 2016, Respondent Olympia Pharmacy was found by Board
15 inspectors to have no policies and procedures in place to help patients with limited or no English
16 proficiency understand the information on the label in the patient's language.

17 61. Complainant realleges paragraphs 30 and 38.

18 **EIGHTH CAUSE FOR DISCIPLINE**

19 **(Failure to Maintain Complete Accountability of Dangerous Drugs)**

20 **(As to Respondent Olympia Pharmacy)**

21 62. Respondent Olympia Pharmacy is subject to disciplinary action under Code section
22 4301, subdivision (o), for violating or attempting to violate, directly or indirectly, or assisting in
23 or abetting the violation of or conspiring to violate any provision or term of the Pharmacy Law
24 (Chapter 9 of Division 2 of the Business and Professions Code), to wit: Code section 4081,
25 subdivision (a), which requires a pharmacy to preserve for three years and make available to
26 authorized officers of the law all records of manufacture and of sale, acquisition, receipt,
27 shipment, or disposition of dangerous drugs or dangerous devices; and California Code of
28 Regulations, title 16, section 1718, which requires a pharmacy to keep a current, complete

1 inventory of all dangerous drugs.

2 63. From on or about October 1, 2015 through on or about May 4, 2016, Respondent
3 Olympia Pharmacy failed to maintain complete accountability for the dangerous drug Creon
4 (24,000 units) and Creon (36,000), in that a Board audit of the aforementioned drugs revealed a
5 discrepancy between purchases and dispensing of, respectively, 22,570 capsules and 20,230
6 capsules.

7 64. Complainant realleges paragraphs 28 and 39.

8 **NINTH CAUSE FOR DISCIPLINE**

9 **(Discontinuance of Business)**

10 **(As to Respondent Olympia Pharmacy)**

11 65. Respondent Olympia Pharmacy is subject to disciplinary action under Code section
12 4301, subdivision (o), for violating or attempting to violate, directly or indirectly, or assisting in
13 or abetting the violation of or conspiring to violate any provision or term of the Pharmacy Law
14 (Chapter 9 of Division 2 of the Business and Professions Code), to wit: California Code of
15 Regulations, title 16, section 1708.2, which requires a permit holder to contact the Board prior to
16 transferring or selling any dangerous drugs, devices or hypodermics inventory as a result of
17 termination of business or bankruptcy proceedings and to follow official instructions given by the
18 Board applicable to the transaction.

19 66. On or about October 31, 2016, Respondent Olympia Pharmacy closed and ceased
20 operating. Its drug inventory was transferred to a licensed facility in Texas and the records of
21 acquisition and disposition of dangerous drugs were sent to a pharmacy in Los Angeles without
22 the Board's knowledge. Respondent Olympia Pharmacy submitted a Discontinuance of Business
23 form to the Board on or about November 17, 2016.

24 67. Complainant realleges paragraphs 30 and 40.

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TENTH CAUSE FOR DISCIPLINE

(Misbranded Drugs)

(As to Respondent Park)

68. Respondent Park is subject to disciplinary action under Code section 4301, subdivision (j), for violating statutes regulating controlled substances and dangerous drugs, in that Respondent Park held and/or offered for sale misbranded drugs, as defined by Health and Safety Code sections 111335 and 111400 in violation of Health and Safety Code section 111440.

69. On or about May 4, 2016, Respondent Park held and/or offered for sale dangerous drugs that had expired (according to the manufacturer's expiration date). The expired drugs were comingled with the pharmacy's active and unexpired drug stock.

70. Complainant realleges paragraphs 30 and 31.

ELEVENTH CAUSE FOR DISCIPLINE

(Operational Standards and Security)

(As To Respondent Park)

71. Respondent Park is subject to disciplinary action under Code section 4301, subdivision (o), for 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 the Pharmacy Law (Chapter 9 of Division 2 of the Business and Professions Code), to wit: California Code of Regulations, title 16, section 1714, subdivision (c), which requires pharmacies to be equipped with a sink with hot and cold running water for pharmaceutical purposes.

72. On or about May 4, 2016, Respondent Park's sink for pharmaceutical purposes could not produce hot water.

73. Complainant realleges paragraphs 30 and 33.

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1 **TWELFTH CAUSE FOR DISCIPLINE**

2 **(Pharmacy Self-Assessment)**

3 **(As to Respondent Park)**

4 74. Respondent Park is subject to disciplinary action under Code section 4301,
5 subdivision (o), for violating or attempting to violate, directly or indirectly, or assisting in or
6 abetting the violation of or conspiring to violate any provision or term of the Pharmacy Law
7 (Chapter 9 of Division 2 of the Business and Professions Code), to wit: California Code of
8 Regulations, title 16, section 1715, subdivisions (a) and (d), which require the Pharmacist-in-
9 Charge to complete a self-assessment of the pharmacy's compliance with federal and state
10 pharmacy law before July 1 of every odd-numbered year.

11 75. On or about May 4, 2016, Respondent Park was unable to provide Board inspectors a
12 dated and completed self-assessment because none had been prepared.

13 76. Complainant realleges paragraphs 30 and 34.

14 **THIRTEENTH CAUSE FOR DISCIPLINE**

15 **(Inventory Requirements)**

16 **(As to Respondent Park)**

17 77. Respondent Park is subject to disciplinary action under Code section 4301,
18 subdivision (j), for violating any of the statutes of this state, of any other state, or of the United
19 States regulating controlled substances and dangerous drugs, to wit: Code of Federal Regulations,
20 title 21, section 1304.11, subdivision (c), which requires the taking of a controlled substance
21 inventory every two years.

22 78. On or about May 4, 2016, Respondent Park was unable to produce upon demand a
23 biennial inventory to Board inspectors because they had not prepared one.

24 79. Complainant realleges paragraphs 30 and 35.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Incomplete DEA Form 222)**

3 **(As to Respondent Park)**

4 80. Respondent Park is subject to disciplinary action under Code section 4301,
5 subdivision (j), for violating any of the statutes of this state, of any other state, or of the United
6 States regulating controlled substances and dangerous drugs, to wit: Code of Federal Regulations,
7 title 21, section 1305.13, subdivision (e), which requires the purchaser of Schedule I or II
8 controlled substances to record on Copy 3 of the DEA Form 222 the number of commercial or
9 bulk containers furnished on each item and the dates on which the containers were received by
10 the purchaser.

11 81. On or about May 4, 2016, Respondents produced five separate DEA Form 222
12 documents to Board inspectors. Each form listed at least one Schedule II controlled substance, but
13 none of the forms recorded the number of packages received or when they were received.
14 Respondent Park signed all five forms, which were dated, respectively, January 15, 2015; May
15 11, 2015; June 18, 2015; July 27, 2015; and November 24, 2015.

16 82. Complainant realleges paragraphs 30 and 36.

17 **FIFTEENTH CAUSE FOR DISCIPLINE**

18 **(Licensed Employee, Theft or Impairment Policies and Procedures)**

19 **(As to Respondent Park)**

20 83. Respondent Park is subject to disciplinary action under Code section 4301,
21 subdivision (o), for 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 the Pharmacy Law
23 (Chapter 9 of Division 2 of the Business and Professions Code), to wit: Code section 4104,
24 subdivision (b), which requires every pharmacy to have written policies and procedures for
25 addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of
26 dangerous drugs, among licensed individuals employed by or with the pharmacy.

27 84. On or about May 4, 2016, Respondent Park was found by Board inspectors to have no
28 written policies or procedures addressing chemical, mental, or physical impairment, as well as

1 theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with
2 the pharmacy.

3 85. Complainant realleges paragraphs 30 and 38.

4 **SIXTEENTH CAUSE FOR DISCIPLINE**

5 **(Patient-Centered Labels for Rx Drug Containers)**

6 **(As to Respondent Park)**

7 86. Respondent Park is subject to disciplinary action under Code section 4301,
8 subdivision (o), for violating or attempting to violate, directly or indirectly, or assisting in or
9 abetting the violation of or conspiring to violate any provision or term of the Pharmacy Law
10 (Chapter 9 of Division 2 of the Business and Professions Code), to wit: California Code of
11 Regulations, title 16, section 1707.5, subdivision (d), which requires a pharmacy to have policies
12 and procedures in place to help patients with limited or no English proficiency understand the
13 information on the label in the patient's language.

14 87. On or about May 4, 2016, Respondent Park was found by Board inspectors to have no
15 policies and procedures in place to help patients with limited or no English proficiency
16 understand the information on the label in the patient's language.

17 88. Complainant realleges paragraphs 30 and 38.

18 **SEVENTEENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Maintain Complete Accountability of Dangerous Drugs)**

20 **(As to Respondent Park)**

21 89. Respondent Park is subject to disciplinary action under Code section 4301,
22 subdivision (o), for violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violation of or conspiring to violate any provision or term of the Pharmacy Law
24 (Chapter 9 of Division 2 of the Business and Professions Code), to wit: Code section 4081,
25 subdivision (a), which requires a pharmacy to preserve for three years and make available to
26 authorized officers of the law all records of manufacture and of sale, acquisition, receipt,
27 shipment, or disposition of dangerous drugs or dangerous devices; and California Code of
28 Regulations, title 16, section 1718, which requires a pharmacy to keep a current, complete

1 inventory of all dangerous drugs.

2 90. From on or about October 1, 2015 through on or about May 4, 2016, Respondent Park
3 failed to maintain complete accountability for the dangerous drug Creon (24,000 units) and Creon
4 (36,000), in that a Board audit of the aforementioned drugs revealed a discrepancy between
5 purchases and dispensing of, respectively, 22,570 capsules and 20,230 capsules.

6 91. Complainant realleges paragraphs 28 and 39.

7 **EIGHTEENTH CAUSE FOR DISCIPLINE**

8 **(Discontinuance of Business)**

9 **(As to Respondent Park)**

10 92. Respondent Park is subject to disciplinary action under Code section 4301,
11 subdivision (o), for violating or attempting to violate, directly or indirectly, or assisting in or
12 abetting the violation of or conspiring to violate any provision or term of the Pharmacy Law
13 (Chapter 9 of Division 2 of the Business and Professions Code), to wit: California Code of
14 Regulations, title 16, section 1708.2, which requires a permit holder to contact the Board prior to
15 transferring or selling any dangerous drugs, devices or hypodermics inventory as a result of
16 termination of business or bankruptcy proceedings and to follow official instructions given by the
17 Board applicable to the transaction.

18 93. On or about October 31, 2016, Respondent Park closed and ceased operating. Its drug
19 inventory was transferred to a licensed facility in Texas and the records of acquisition and
20 disposition of dangerous drugs were sent to a pharmacy in Los Angeles without the Board's
21 knowledge. Respondent Park submitted a Discontinuance of Business form to the Board on or
22 about November 17, 2016.

23 94. Complainant realleges paragraphs 30 and 40.

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OTHER MATTERS

95. If Pharmacist License No. RPH 42196, issued to Respondent Park, is revoked or suspended or otherwise disciplined, then, pursuant to Code section 4307, Respondent Park shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee until, if the license is revoked, the license is reinstated or, if the license is placed on probation, for a period not to exceed five years.

96. If Pharmacy Permit No. PHY 43876, issued to Respondent Olympia Pharmacy, is revoked or suspended or otherwise disciplined for conduct of which Respondent Park had knowledge of or knowingly participated in while he acted as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control and for which the permit is denied, revoked, suspended or placed on probation, then, pursuant to Code section 4307, Respondent Park shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee until, if the pharmacy permit is revoked, the license is reinstated or, if the pharmacy permit is placed on probation, for a period not to exceed five years.

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 42196, issued to Chul Kyu Park;
2. Revoking or suspending Pharmacy Permit Number PHY 43876, issued to Olympia Pharmacy;
3. Prohibiting Chul Kyu Park from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee during the period in which discipline is imposed on Pharmacy Permit Number PHY 43876, issued to Olympia Pharmacy for conduct of which Chul Kyu Park had knowledge or knowingly participated in, pursuant to Code section 4307;

1 4. Prohibiting Chul Kyu Park from serving as a manager, administrator, owner, member,
2 officer, director, associate, or partner of a licensee during the period in which discipline is
3 imposed on Pharmacist License No. RPH 42196, issued to Chul Kyu Park, pursuant to Code
4 section 4307;

5 5. Ordering Chul Kyu Park and Olympia Pharmacy to pay the Board of Pharmacy the
6 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
7 Professions Code section 125.3; and,

8 6. Taking such other and further action as deemed necessary and proper.
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11 DATED: January 21, 2020



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