

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

In the Matter of the Accusation Against:

HIGHLAND HOSPITAL PHARMACY, Respondent

Hospital Pharmacy Permit No. HPE 14210

Agency Case No. 6755

OAH No. 2020060014

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Repeval 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 January 20, 2021.

It is so ORDERED on December 21, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
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Attorneys for Complainant
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9 **BEFORE THE**
10 **BOARD OF PHARMACY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **HIGHLAND HOSPITAL PHARMACY**
15 **1411 East 31st Street**
Oakland, CA 94602
16 **Hospital Pharmacy Permit No. HPE 14210**

17 Respondent.

Case No. 6755

OAH No. 2020060014

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code § 495]

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:
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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 Laura Pedicini, Deputy Attorney
27 General.
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1 **CULPABILITY**

2 8. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 6755, if proven at a hearing, constitute cause for imposing discipline upon its Hospital
4 Pharmacy Permit

5 9. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up its right to contest
8 those charges.

9 10. Respondent agrees that its Hospital Pharmacy Permit is subject to discipline and they
10 agree to be bound by the Disciplinary Order below.

11 **CONTINGENCY**

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

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

26 13. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by
27 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
28 of their agreement. It supersedes any and all prior or contemporaneous agreements,

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

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

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Hospital Pharmacy Permit No. HPE 14210 issued to
10 Respondent HHighland Hospital Pharmacy (Respondent) shall be publicly reprovved by the Board
11 of Pharmacy under Business and Professions Code section 495 in resolution of Accusation No.
12 6755, attached as exhibit A.

13 **Cost Recovery.** Respondent shall pay \$9,982 to the Board for its costs associated with the
14 investigation and enforcement of this matter. Respondent shall be permitted to pay these costs in
15 a payment plan approved by the Board. If Respondent fails to pay the Board costs as ordered,
16 Respondent shall not be allowed to renew their Hospital Pharmacy Permit until Respondent pays
17 costs in full.

18 **Full Compliance.** As a resolution of the charges in Accusation No. 6755, this stipulated
19 settlement is contingent upon Respondent's full compliance with all conditions of this Order. If
20 Respondent fails to satisfy any of these conditions, such failure to comply constitutes cause for
21 discipline, including outright revocation, of Respondent's Hospital Pharmacy Permit No. HPE
22 14210.

23 **ACCEPTANCE**

24 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
25 Repeval and have fully discussed it with my attorney, Marc G. Cowden . I understand the
26 stipulation and the effect it will have on my Hospital Pharmacy Permit. I enter into this
27 Stipulated Settlement and Disciplinary Order for Public Repeval voluntarily, knowingly, and
28 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

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DATED: _____
HIGHLAND HOSPITAL PHARMACY
Respondent

I have read and fully discussed with Respondent Highland Hospital Pharmacy the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Repeval. I approve its form and content.

DATED: _____
MARC G. COWDEN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Repeval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
LAURA PEDICINI
Deputy Attorney General

LAURA PEDICINI
Deputy Attorney General
Attorneys for Complainant

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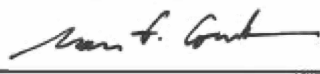
DATED: 9/11/2020



HIGHLAND HOSPITAL PHARMACY
Respondent

I have read and fully discussed with Respondent Highland Hospital Pharmacy the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Repeval. I approve its form and content.

DATED: 9/14/20



MARC G. COWDEN
Attorney for Respondent


ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Repeval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 9/15/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LAURA PEDICINI
Deputy Attorney General



LAURA PEDICINI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6755

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

13 In the Matter of the Accusation Against:

Case No. 6755

14 **HIGHLAND HOSPITAL PHARMACY**
15 **1411 East 31st Street**
Oakland, CA 94602

ACCUSATION

16 **Original Hospital Pharmacy Permit No.**
17 **HPE 14210**

Respondent.

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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, Department of Consumer Affairs.

23 2. On or about November 1, 1984, the Board of Pharmacy issued Original Hospital
24 Pharmacy Permit Number HPE 14210 to Highland Hospital Pharmacy (Respondent). The Permit
25 was in full force and effect at all times relevant to the charges brought in this Accusation and will
26 expire on August 1, 2020, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, 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, in pertinent part:

(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.

...

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

5. Section 4300.1 of the Code provides that “[t]he 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

6. 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:

...

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

REGULATORY PROVISIONS

7. California Code of Regulations, title 16, section 1716, states:

Pharmacists shall not deviate from the requirements of a prescription except upon the prior consent of the prescriber or to select the drug product in accordance with Section 4073 of the Business and Professions Code.

Nothing in this regulation is intended to prohibit a pharmacist from exercising commonly-accepted pharmaceutical practice in the compounding or dispensing of a prescription.

8. California Code of Regulations, title 16, section 1761, subdivision (a) states:

(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.

COST RECOVERY

9. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

DEFINITIONS

10. Potassium chloride solution (KCL), also known by the brand name K-Sol, is a dangerous drug under Business and Professions Code, section 4022. It is used to treat low potassium levels.

FACTUAL ALLEGATIONS

11. In August 2018, Patient RA, an 88-year old woman suffering from severe sepsis, was admitted to Highland Hospital in Oakland, California.

12. On or about August 5, 2018, Patient RA's physician prescribed KCL for her and submitted the prescription to Highland Hospital Pharmacy. The prescription stated that the

1 Patient RA should receive two doses of 40 milliequivalents (mEq) KCL, one at the time of the
2 prescription (02:22) and another one two hours later (at approximately 04:00). However, the
3 prescription also stated that Patient RA should receive 40 mEq of KCL every 2 hours for 31 days,
4 with the prescription starting on August 5, 2018, and ending on September 5, 2018 at 02:00.

5 13. The typically daily limit for KCL for an individual is 120 mEq.

6 14. The pharmacist at Highland Hospital Pharmacy who reviewed the prescription for
7 Patient RA failed to notice that the stop date on the prescription did not match the number of
8 doses specified in the prescriber's clinical directions. The pharmacist failed to contact the
9 prescriber to clarify the uncertainty in the order prior to approving the prescription.

10 15. Patient RA ultimately received 10 doses of 40 mEq of KCL on August 5, 2018,
11 meaning she received 480 mEq of KCL in less than 24 hours. Patient RA passed away on August
12 5, 2018, due to her high potassium levels.

13 **CAUSE FOR DISCIPLINE**

14 Variation from a Prescription; Erroneous or Uncertain Prescription

15 16. Respondent's Original Hospital Pharmacy Permit is subject to discipline because
16 Respondent approved a prescription that contained an uncertainty that resulted in a patient's
17 death. The circumstances are further explained in paragraphs 11 to 15, above.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
20 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

21 1. Revoking or suspending Hospital Pharmacy Permit Number HPE 14210, issued to
22 Highland Hospital Pharmacy;

23 2. Ordering Highland Hospital Pharmacy to pay the Board of Pharmacy the reasonable
24 costs of the investigation and enforcement of this case, pursuant to Business and Professions
25 Code section 125.3; and

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

DATED: December 12, 2019



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

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