

THE COLLEGE OF PHARMACISTS OF MANITOBA

In the matter of: *The Pharmaceutical Act, C.C.S.M., c.P60*

And in the matter of: Soeb Ekghaunwala, a pharmacist registered with the College of Pharmacists of Manitoba

[REDACTED]

DECISION AND ORDER OF THE DISCIPLINE COMMITTEE

Pursuant to the Notice of Hearing (the “Notice”) dated May 24, 2024, a hearing was conducted by the Discipline Committee of the College of Pharmacists of Manitoba (the “College”) at the offices of Thompson Dorfman Sweatman LLP, 1700-242 Hargrave Street, Winnipeg, Manitoba, R3C 0V1 on January 14, 2025, with respect to charges formulated by the College alleging that Soeb Ekghaunwala (“Mr. Ekghaunwala”), being a pharmacist under the provisions of *The Pharmaceutical Act, C.C.S.M. c.P60* (the “Act”) and a registrant of the College, is guilty of professional misconduct, conduct unbecoming a member, having displayed a lack of knowledge or lack of skill or judgment in the practice of pharmacy or the operation of a pharmacy, or any of the above, as described in section 54 of the Act, in that, at Shoppers Drug Mart No. 557, 302 North Railway Street, Morden, Manitoba (the “Pharmacy”), in the capacity of a pharmacist and/or pharmacy manager:

1. on or about March 19, 2021 and/or July 9, 2021, Mr. Ekghaunwala created two new prescription records for patient [REDACTED] using inaccurate prescriber information in contravention of sections 70(1) and 83 of the *Pharmaceutical Regulation, Man Reg 185/2013* (the "Regulation"), and section 2.1.3 of the Practice Direction - Records and Information (the “Records PD”), or any of them;
2. [REDACTED]
3. as pharmacy manager, Mr. Ekghaunwala failed to implement written policy and procedures with respect to creation of a prescription record and the final check for both new and refill prescriptions in contravention of subsection 56(1)13 of the Regulation;
4. [REDACTED]
5. as pharmacy manager, Mr. Ekghaunwala failed to ensure that patient counselling and patient counselling refusals were documented in contravention of sections 56(1)1, 56(1)13 and 73 of the Regulation, and sections 2,2.1, 2.14, 3.1 and 3.2 of the Counselling PD, or any of them;

6. [REDACTED]
7. as pharmacy manager, Mr. Ekghaunwala failed to conduct joint controlled substance physical counts upon change of pharmacy manager in contravention of the Narcotic and Controlled Drug Accountability Guidelines (the “Guidelines”);
8. as pharmacy manager, on multiple occasions between June 26, 2021 and August 27, 2021, Mr. Ekghaunwala failed to ensure that all discrepancies in the perpetual inventory were investigated and the investigations documented in contravention of sections 2.3.2.3 and 2.3.2.4 of the Practice Direction - Drug Distribution and Storage (the “DDS PD”), sections 2.1.1, 2.1.2 and 2.1.3 of the Records PD, and the Guidelines, or any of them;
9. [REDACTED]
10. as pharmacy manager, on multiple occasions between June 26, 2021 and August 27, 2021, Mr. Ekghaunwala failed to ensure all controlled substances had their perpetual inventory values verified every three months in contravention of section 43 of the NCRs, section G.03.012 of the FDRs, subsection 72(1)(a) of the BOTSRs, sections 2.3.1, 2.3.2.1 and 2.3.2.2 of the DDS PD, sections 2.1.1, 2.1.2 and 2.1.3 of the Records PD, and the Guidelines, or any of them; and
11. [REDACTED]

The hearing into the charges convened on January 14, 2025. Mr. Jeffrey Hirsch and Ms. Sharyne Hamm appeared as counsel on behalf of the Complaints Committee. Ms. Jennifer Sokal appeared with and on behalf of Mr. Ekghaunwala. Mr. David Marr appeared as counsel to the Discipline Committee (the “Panel”).

A statement of Agreed Facts (the “Statement”) was filed, in which Mr. Ekghaunwala admitted:

I. Jurisdiction, Service and Panel Composition

1. his membership in the College;
2. valid service of the Notice of Hearing dated May 24, 2024 and that the College has complied with the requirements of sub-sections 46(2) and 46(3) of the Act;
3. he has no objection to any of the Panel members nor to legal counsel to the Panel on the basis of bias, a reasonable apprehension of bias or a conflict of interest.

II. Practice and Discipline History:

4. Mr. Ekghaunwala graduated with his pharmacy degree from Allama College of Pharmacy in India in 2010, but did not practice there, and instead began working as a pharmacy assistant in Canada in 2014.
5. Mr. Ekghaunwala has been registered as a pharmacist under the Act since April 6, 2018.
6. At all times material to this proceeding, Mr. Ekghaunwala was a member of the College as a practicing pharmacist in Manitoba.
7. Mr. Ekghaunwala's employment history is as follows:
 - (a) beginning on June 1, 2021, Mr. Ekghaunwala became the pharmacy manager at Shopper's Drug Mart #557 (the "Pharmacy") and remained in that role until September 20, 2021, when he resigned from the position. Mr. Ekghaunwala was a staff pharmacist in the Pharmacy until December 5, 2021;
 - (b) Mr. Ekghaunwala was employed as a pharmacist in British Columbia between June 2022 and January 2023;
 - (c) from early 2023, Mr. Ekghaunwala has been employed as the pharmacy manager and pharmacist owner at the Shoppers Drug Mart in Winnipeg Square; and
 - (d) at the time Mr. Ekghaunwala became pharmacy manager at the Pharmacy, the former manager had commenced an emergency medical leave as of May 5, 2021.
8. Mr. Ekghaunwala has no previous discipline history with the College.

III. Admissions and Plea

9. Mr. Ekghaunwala has reviewed the Notice as well as the Statement. He admits the truth and accuracy of the facts in the Statement and that the witnesses and other evidence available to the College would, if called and otherwise tendered, be substantially in accordance with these facts.
10. Mr. Ekghaunwala tenders no evidence and makes no submissions on the issue of professional misconduct, other than to admit that the conduct hereinafter described demonstrates professional misconduct as described in section 54 of the Act.
11. Mr. Ekghaunwala agrees to enter a plea of guilty to counts 1, 3, 5, 7, 8 and 10 as set out in the Notice.
12. The College will be entering a stay of proceedings with respect to counts 2, 4, 6, 9 and 11 of the Notice.

25. Subsection 70(1) of the Regulation states that a drug must not be dispensed unless a prescription record is made setting out certain required information, including, but not limited to the name and address of the practitioner.
26. Section 83 of the Regulation requires that pharmacists ensure patient safety by reviewing each prescription and the patient's record and taking appropriate action where necessary.
27. Section 2.1.3 of the Records PD requires that all records maintained by the pharmacy are to be current and accurate with respect to the pharmacist's or pharmacy's activities.
28. At the material times, ■ was a kidney transplant recipient and was taking anti-rejection medications, including:
 - (a) Envarsus PA® 4mg (tacrolimus) daily;
 - (b) Prednisone 5mg daily; and
 - (c) Myfortic EC® 360mg (Mycophenolate): two tablets twice daily.
29. On or about March 19, 2021, Mr. Ekghaunwala filled a prednisone prescription for patient ■. The prescription for prednisone was written by ■ at “SR322 - 820 Sherbrook Street” (which is the Health Sciences Centre (“HSC”) Adult Renal Transplant Clinic) on March 17, 2021. The prescription specified that 30 prednisone 5mg tablets were to be dispensed to patient ■ with 12 refills, for a total of 13 months of treatment.
30. The prescription was faxed to the Pharmacy and was entered into the Healthwatch system by a pharmacy assistant. On March 19, 2021, Mr. Ekghaunwala performed the Data Verification, Clinical Verification and Final Check on the prescription.
31. When the prednisone prescription was entered into the Healthwatch system, the wrong prescriber profile for ■ was selected. Instead of being attributed to ■ at the HSC Adult Renal Transplant Clinic, the prescription was attributed to the same ■ at “SBH RENAL HEALTH CLINIC 409 TACHE AVE” (which is the St. Boniface Hospital Renal Health Clinic). As a result of this error, patient ■ prednisone prescription record reflected incorrect prescriber contact information, including the wrong telephone number and fax number.
32. By completing the Data Verification, Clinical Verification and Final Check on the prednisone prescription, Mr. Ekghaunwala signed off on the accuracy of the data entry, despite the errors.
33. On or about July 9, 2021, during the time he was pharmacy manager within the Pharmacy, Mr. Ekghaunwala filled a Myfortic® prescription for patient ■. The prescription for Myfortic® was written by ■ at the HSC Adult Renal Transplant Clinic. The prescription specified that 120 Myfortic® EC 360mg tablets were to be dispensed to patient ■, with 12 refills, for a total of 13 months of treatment.
34. The prescription was faxed to the Pharmacy on May 28, 2021, and was entered into the Healthwatch system by Mr. Ekghaunwala on July 9, 2021. On the same date, Mr. Ekghaunwala performed the Data Verification, Clinical Verification and Final Check on the prescription.

35. When the Myfortic prescription was entered into the Healthwatch system, the wrong prescriber profile for ██████ was selected. Instead of being attributed to ██████ at the HSC Adult Renal Transplant Clinic, the prescription was attributed to ██████ at the St. Boniface Hospital Renal Health Clinic. As a result, patient ██████'s Myfortic prescription record reflected incorrect prescriber contact information, including the wrong telephone number and fax number.
36. By completing the Data Verification, Clinical Verification and Final Check on the Myfortic® prescription, Mr. Ekghaunwala signed off on the accuracy of the data entry, despite the errors.
37. Between March 2021 and April 2022, the Pharmacy filled numerous prescriptions for patient ██████ including for prednisone and Myfortic®. Beginning in May 2022, patient ██████ had no refills remaining on ██████ prednisone prescription.
38. Mr. Ekghaunwala ceased being employed at the Pharmacy in December 2021 and had no involvement in this matter after that time.
39. On or about May 27, 2022, ██████, a staff pharmacist within the Pharmacy, sent a fax requesting prednisone refills to the prescriber. This fax was sent to the St. Boniface Hospital Renal Health Clinic, at which patient ██████ had never been a patient.
40. On or about June 24, 2022, ██████ sent a second fax requesting prednisone refills to the prescriber, again using a fax number which was associated with the St. Boniface Hospital Renal Health Clinic, at which patient ██████ was not, and had never been, a patient.
41. In or around July of 2022, the HSC Renal Transplant Clinic contacted patient ██████ to schedule a routine follow-up appointment. At this time, patient ██████ informed the HSC Renal Transplant Clinic that he had not taken his prednisone for more than two months. On or about July 25, 2022, the HSC Renal Transplant Clinic faxed a new prednisone prescription to the Pharmacy, where it was filled.
42. The failure of the Pharmacy to refill these medications after May 18 resulted in ██████ going without prednisone until July 25, 2022, and without Envarsus until August 5, 2022.
43. Beginning on or about August 8, 2022, patient ██████ began a series of procedures to save ██████ kidney from rejection, including an emergency kidney biopsy and plasmapheresis.

Count 3

44. Count 3 alleges that Mr. Ekghaunwala, as pharmacy manager, failed to implement written policies and procedures with respect to creation of prescription record and the final check for both new and refill prescriptions in contravention of subsection 56(1)13 of the Regulation.
45. Subsection 56(1)13 of the Regulation requires that a pharmacy manager must establish, implement and maintain written policies and procedures to identify, mitigate and avoid situations that expose patients and staff to inappropriate risks and ensure safe and effective pharmacy practice.
46. The Pharmacy maintained a Policy and Procedures Manual (the "Manual"). The Manual included obligations on pharmacy staff in connection with completion of the Data

Verification, Clinical Verification and Final Check steps. The Manual included a copy of subsection 70(1) of the Regulation to outline the information required to be verified by the pharmacist during the Final Check process, which included the name and address of the prescriber.

47. Mr. Ekghaunwala did not catch the error in [REDACTED] address while performing the Data Verification and Final Check steps on patient [REDACTED] original prednisone and Myfortic® prescriptions and therefore did not comply with the Manual by verifying the required information during the Final Check process.

Count 5

48. Count 5 alleges that Mr. Ekghaunwala, as pharmacy manager, failed to ensure that patient counselling and patient counselling refusals were documented in contravention of subsections 56(1)1, 56(1)13 and 73 of the Regulation, and sections 2.2.1, 2.14, 3.1 and 3.2 of the Practice Direction - Patient Counselling (the “Counselling PD”), or any of them.
49. Subsection 56(1)1 of the Regulation states that each time a drug is dispensed pursuant to a prescription, the pharmacist must provide the patient with sufficient information to enable the patient to safely and effectively manage his or her drug therapy.
50. Subsection 73 of the Regulation requires that a drug not be dispensed unless the standards of practice and practice directions for counselling patients have been met and a counselling record is made.
51. Section 2.2.1 of the Counselling PD requires that a licensed pharmacist, academic registrant or intern must enter into a dialogue with a patient when a Schedule 1 drug is dispensed to a patient or to their agent. Section 2.14 of the Counselling PD states that a licensed pharmacist may exercise professional judgment as to the content of the dialogue for repeat and refill prescriptions.
52. Sections 3.1 and 3.2 of the Counselling PD require that patient counselling be documented. In the event that a patient refuses to participate in counselling, the licensed pharmacist is required to ensure that the refusal is documented in the record.
53. While investigating the complaint made by patient [REDACTED] the Investigator reviewed Healthwatch Pick-up and Counselling Reports present at the pharmacy. The Investigator identified several reports which were not compliant with the requirement to document all patient counselling and determined that he would review the practices of the Pharmacy as it related to patient counselling documentation to confirm the level of compliance with legislation.
54. Patient counselling records at the Pharmacy are exclusively recorded in the Healthwatch system, and no paper-based systems are used. At the time a prescription is picked-up by the patient or their agent, the pharmacy assistant can scan the exterior label on the prescription bag, which will bring up a Pick-up/Counsel screen on the computer. This screen displays patient information, drug information, warnings or indicators to be addressed during counselling, and check boxes to indicate whether counselling was accepted or refused. There is also space for the pharmacist to add additional counselling notes.
55. When a prescription is new, as opposed to a refill prescription, a flag would appear on the Healthwatch screen to indicate that the medication is new to the patient.

56. The Pharmacy’s Manual provided the following specific guidance on patient counselling:
- (a) counselling must be completed by a pharmacist before medications can be released to the patient;
 - (b) if the patient declines counselling, the pharmacist is responsible for making the decision regarding whether the prescription is safe to be released without counselling; and
 - (c) documentation of declined counselling must be maintained in the pharmacy system.
57. The following statement is written in bold font and underlined in the Manual:

“Our pharmacy standard is to provide counselling on all prescriptions, both new and refill.”

58. During the January 27, 2024 drop-in visit to the Pharmacy, the Investigator generated Healthwatch Undocumented Counselling Reports for randomly selected dates between September 7, 2021 and June 15, 2023.
59. On September 7, 2021, the Healthwatch Undocumented Counselling Report shows that 194 prescriptions were released without documented counselling or documentation of refused counselling.
60. On September 9, 2021, the Healthwatch Undocumented Counselling Report shows that 146 prescriptions were released without documented counselling or documentation of refused counselling.

Count 7

61. Count 7 alleges that Mr. Ekghaunwala, as pharmacy manager, failed to conduct joint controlled substance physical counts upon change of pharmacy manager in contravention of the Narcotic and Controlled Drug Accountability Guidelines (the “Guidelines”).
62. The Guidelines state that every change of pharmacy manager requires an additional physical count of narcotic and controlled drugs by the departing manager and the new manager, and state that the signature of each pharmacy manager is to be recorded on the count documents.
63. Controlled substance inventory counts within the Pharmacy were conducted on the following dates:
- (a) May 22, 2021;
 - (b) June 26, 2021;
 - (c) July 31, 2021;
 - (d) August 27, 2021; and
 - (e) September 25, 2021.

64. Mr. Ekghaunwala became pharmacy manager at the Pharmacy on June 1, 2021. No count was conducted on this date. Neither of the controlled substance inventory counts conducted on May 22, 2021 and June 26, 2021 indicate who conducted the count, or whether the incoming and outgoing pharmacy managers were involved.
65. Mr. Ekghaunwala ceased being the pharmacy manager on September 20, 2021. No count was conducted on this date. Neither of the controlled substance inventory counts conducted on August 27, 2021 and September 25, 2021 indicate who conducted the count, or whether the incoming and outgoing pharmacy managers were involved.

Count 8

66. Count 8 alleges that Mr. Ekghaunwala, as pharmacy manager, on multiple occasions between June 26, 2021 and August 27, 2021, failed to ensure that all discrepancies in the perpetual inventory were investigated and the investigations were documented, in contravention of sections 2.3.2.3 and 2.3.2.4 of the Practice Direction - Drug Distribution and Storage (the "DDS PD), sections 2.1.1, 2.1.2 and 2.1.3 of the Records PD, and the Guidelines, or any of them.
67. Sections 2.3.2.3 and 2.3.2.4 of the DDS PD require that pharmacy managers must ensure that there are adequate procedures in place to identify theft, loss or diversion of narcotic and controlled drugs, including procedures to investigate any discrepancies which are identified, and procedures to evaluate whether procedure changes or preventative measures are required to prevent future discrepancies.
68. Sections 2.1.1, 2.1.2 and 2.1.3 of the Records PD require pharmacists to keep all records required by the legislation and practice directions in a clear, concise and easy to read format. Records maintained by the pharmacy are to be current and accurate.
69. The Guidelines require that where a discrepancy is identified during an inventory count, the pharmacy manager is required to initiate the necessary steps to identify the cause of the discrepancy or shortage, the responsible staff person, and initiate corrective actions.
70. Investigation of discrepancies is important to overall narcotic and controlled drug accountability. Investigation of discrepancies may identify issues such as drug receiving errors, dispensing errors, or drug diversion.
71. Not all discrepancies identified in controlled substance inventory counts within the Pharmacy were subject to a documented investigation.
72. With respect to the count conducted on June 26, 2021, nine discrepancies were identified (four positive discrepancies [over] and five negative discrepancies [short]). With respect to the count conducted on July 31, 2021, eleven discrepancies were identified (seven positive discrepancies [over] and four negative discrepancies [short]). None of these discrepancies had a documented investigation, including that there was no written explanation of the steps taken to identify why the physical count differed from the expected perpetual count.
73. With respect to the count conducted on August 27, 2021, 12 discrepancies were identified (eleven positive discrepancies [over] and one negative discrepancy [short]). Only one of these discrepancies had a documented investigation.

Count 10

74. Count 10 alleges that Mr. Ekghaunwala, as pharmacy manager, on multiple occasions between June 26, 2021 and August 27, 2021, failed to ensure that all controlled substances had their perpetual inventory values verified every three months in contravention of section 43 of the Narcotic Control Regulations (the “NCRs”), section G.03.012 of the Food and Drug Regulations (the “FDRs”), subsection 72(1)(a) of the Benzodiazepine and Other Targeted Substances Regulation (the “BOTSRs”), sections 2.3.1, 2.3.2.1, and 2.3.2.2 of the DDS PD, sections 2.1.1, 2.1.2 and 2.1.3 of the Records PD and the Guidelines, or any of them.
75. Section 43 of the NCRs, section G.03.012 of the FDRs, and subsection 72(1)(a) of the BOTSRs each outline a requirement on a pharmacist to take all reasonable steps necessary to protect narcotics, controlled drugs, and targeted substances under his control against loss or theft.
76. Section 2.3.1 of the DDS PD requires the pharmacy manager to ensure that all drugs are secured against theft, loss or diversion. Sections 2.3.2.1 and 2.3.2.2 of the DDS PD require the pharmacy manager to ensure that there are adequate procedures in place to identify theft, loss or diversion of narcotic and controlled drugs, including by maintaining a perpetual inventory of each drug and performing and recording physical counts of these drugs and of expired/patient returned CDSA drugs at least once every three months.
77. The Investigator reviewed the controlled substance inventory counts within the Pharmacy for the dates between May 22, 2021 and October 16, 2023. His review determined that most counts were incomplete, with the verification of many narcotic, controlled, and targeted drugs often being skipped, resulting in the three month maximum count interval being exceeded.
78. During the counts completed on June 26, July 31, and August 27, 2021, the narcotic drug Methadose® was not measured out and its volume on-hand remained unverified for more than three months.
79. During the count completed July 31, 2021, the following medications were not counted or verified:
 - (a) all benzodiazepines;
 - (b) Dexedrine Spansules 10mg;
 - (c) Methadose®;
 - (d) Oxycodone/acetaminophen;
 - (e) Ritalin 20mg; and
 - (f) Taro-testosterone 40mg.
80. During the count conducted August 27, 2021, the following medications were not counted or verified:
 - (a) all benzodiazepines;

(b) Methadose®; and

(c) Ritalin 20mg.

81. The failure to conduct physical counts of these drugs resulted in the count interval for each of these drugs exceeding three months.

V. Disposition

Legal counsel for the College and Mr. Ekghaunwala made a joint submission in respect of an appropriate disposition on penalty, with which the Panel is in agreement. Having found Mr. Ekghaunwala guilty of professional misconduct as described in section 54 of the Act, the Panel orders pursuant to sections 55 and 56 of the Act that Mr. Ekghaunwala:

1. pay a fine of \$3,500.00;
2. pay a contribution towards costs of the investigation and hearing in the amount of \$4,000.00;
3. pay the fine and costs to the College within two (2) months of the date hereof;
4. The decision of the Panel will be published and made available to the public pursuant to s.58 of the Act.

In arriving at its decision, the Panel considered:

1. The Statement of Agreed Facts and the joint recommendation on disposition.
2. Mr. Ekghaunwala has been a member of the College since April 6, 2018 and has no prior complaints.
3. Mr. Ekghaunwala showed great remorse for his involvement in ■■■'s negative health outcome, to which he contributed regardless of there being several other factors for which he had no involvement as he was working at a different pharmacy at the time.
4. The Panel recognizes that Mr. Ekghaunwala was subjected to a very stressful situation with the owner/manager of the Pharmacy needing emergency surgery and time off for recovery, which led him to taking on a role of pharmacy manager without sufficient training or guidance. Additionally, at this time the Covid pandemic was raging, resulting in his father's demise in India, for which he was unable to grieve properly. During this time, there was also the challenge of managing inexperienced support staff and he stepped away from the role as pharmacy manager after approximately 3 and ½ months.
5. The Panel recognizes that Mr. Ekghaunwala has subsequently obtained proper training and since early 2023 has been employed as the pharmacy manager and owner of a pharmacy in Winnipeg without any issues.
6. Finally, the Panel takes into consideration that in pleading guilty Mr. Ekghaunwala has accepted accountability, and has saved the considerable time and expense of a contested hearing.

Accordingly, the Panel is satisfied that this disposition adequately provides a specific deterrence to Mr. Ekghaunwala, as well as a general deterrence to dissuade members of the profession from partaking in similar conduct. The Panel is satisfied that this decision will serve to ensure that the public's interest is protected and will maintain the public's confidence in the profession's ability to properly govern the conduct of its members.

DATED at Winnipeg, Manitoba this 24th day of January, 2025.

THE COLLEGE OF PHARMACISTS OF MANITOBA

Per: 
Martha Mikulak
Chair, Discipline Panel

