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

11 In the Matter of the Accusation Against:

12 **KARL M. AHLWEDE**
1121 No. L Street
Aberdeen, Washington 98520

13 and

14 P.O. Box 2445
Taholah, Washington 98587

15 Pharmacist License No. RPH 22794

16 Respondent.

Case No. 2783

OAH No. N2005010188

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 **PARTIES**

22 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
23 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
24 by Bill Lockyer, Attorney General of the State of California, by Rebecca Heinstein, Deputy
25 Attorney General.

26 2. Respondent Karl M. Ahlswede (Respondent) is represented in this
27 proceeding by attorney William Pinkus, whose address is 9094 Old Redwood Highway
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1 Cotati, California 94931.

2 3. On or about December 31, 1969, the Board of Pharmacy issued Pharmacist
3 License No. RPH 22794 to Karl M. Ahlswede (Respondent). The License was in full force and
4 effect at all times relevant to the charges brought in Accusation No. 2783 and will expire on
5 April 30, 2006, unless renewed.

6 **JURISDICTION**

7 4. Accusation No. 2783 was filed before the Board of Pharmacy ("Board") ,
8 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
9 and all other statutorily required documents were properly served on Respondent on December
10 17, 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
11 Accusation No. 2783 is attached as exhibit A and incorporated herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, fully discussed with counsel, and
14 understands the charges and allegations in Accusation No. 2783. Respondent has also carefully
15 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

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

26 **CULPABILITY**

27 8. Respondent admits the truth of each and every charge and allegation in
28 Accusation No. 2783.

1 • discipline, citation, or other administrative action filed by any state and
2 federal agency which involves Respondent's license or which is related
3 to the practice of pharmacy or the manufacturing, obtaining, handling or
4 distribution or billing or charging for any drug, device or controlled
5 substance.

6 2. **Reporting to the Board.** Respondent shall report to the Board
7 quarterly. The report shall be made either in person or in writing, as directed. Respondent
8 shall state under penalty of perjury whether there has been compliance with all the terms and
9 conditions of probation. If the final probation report **is not** made as directed, probation shall
10 be extended automatically until such time as the final report is made and accepted by the
11 Board.

12 3. **Interview with the Board.** Upon receipt of reasonable notice,
13 Respondent shall appear in person for interviews with the Board upon request at various
14 intervals at a location to be determined by the Board. Failure to appear for a scheduled
15 interview without prior notification to Board staff shall be considered a violation of probation.

16 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
17 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
18 compliance with the terms and conditions of his probation. Failure to comply shall be
19 considered a violation of probation.

20 5. **Continuing Education.** Respondent shall provide evidence of efforts
21 to maintain skill and knowledge as a pharmacist as directed by the Board.

22 6. **Notice to Employers.** Respondent shall notify all present and
23 prospective employers of the decision in case number 2783 and the terms, conditions and
24 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
25 this decision, and within 15 days of Respondent undertaking new employment, Respondent
26 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
27 writing acknowledging the employer has read the decision in case number 2783.

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1 If Respondent works for or is employed by or through a pharmacy employment
2 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
3 every pharmacy of the and terms conditions of the decision in case number 2783 in advance of
4 the Respondent commencing work at each pharmacy.

5 "Employment" within the meaning of this provision shall include any full-time,
6 part-time, temporary, relief or pharmacy management service as a pharmacist,
7 whether the Respondent is considered an employee or independent contractor.

8 **7. No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
9 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
10 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
11 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
12 order.

13 **8. Reimbursement of Board Costs.** Respondent shall pay to the Board
14 its costs of investigation and prosecution in the amount of \$5,100.00. Respondent shall pay
15 such costs on a quarterly basis. Failure to complete payment of cost recovery prior to the
16 expiration of probation shall constitute a violation of probation.

17 The filing of bankruptcy by Respondent shall not relieve Respondent of his
18 responsibility to reimburse the Board its costs of investigation and prosecution.

19 **9. Probation Monitoring Costs.** Respondent shall pay the costs
20 associated with probation monitoring as determined by the Board each and every year of
21 probation. Such costs shall be payable to the Board at the end of each year of probation.
22 Failure to pay such costs shall be considered a violation of probation.

23 **10. Status of License.** Respondent shall, at all times while on probation,
24 maintain an active current license with the Board, including any period during which
25 suspension or probation is tolled.

26 If Respondent's license expires or is cancelled by operation of law or otherwise,
27 upon renewal or reapplication, Respondent's license shall be subject to all terms and
28 conditions of this probation not previously satisfied.

1 11. **License Surrender while on Probation/Suspension.** Following the
2 effective date of this decision, should Respondent cease practice due to retirement or health,
3 or be otherwise unable to satisfy the terms and conditions of probation, Respondent may
4 tender his license to the Board for surrender. The Board shall have the discretion whether to
5 grant the request for surrender or take any other action it deems appropriate and reasonable.
6 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject
7 to the terms and conditions of probation.

8 Upon acceptance of the surrender, Respondent shall relinquish his pocket
9 license to the Board within 10 days of notification by the Board that the surrender is accepted.
10 Respondent may not reapply for any license from the Board for three years from the effective
11 date of the surrender. Respondent shall meet all requirements applicable to the license sought
12 as of the date the application for that license is submitted to the Board.

13 12. **Notification of Employment/Mailing Address Change.** Respondent
14 shall notify the Board in writing within 10 days of any change of employment. Said
15 notification shall include the reasons for leaving and/or the address of the new employer,
16 supervisor or owner and work schedule if known. Respondent shall notify the Board in
17 writing within 10 days of a change in name, mailing address or phone number.

18 13. **Tolling of Probation.** Should Respondent, regardless of residency, for
19 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in
20 California, Respondent must notify the Board in writing within 10 days of cessation of the
21 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
22 shall not apply to the reduction of the probation period. It is a violation of probation for
23 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
24 period exceeding three years.

25 "Cessation of practice" means any period of time exceeding 30 days in which
26 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of
27 the Business and Professions Code.
28

1 14. **Violation of Probation.** If Respondent violates probation in any
2 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
3 probation and carry out the disciplinary order which was stayed. If a petition to revoke
4 probation or an accusation is filed against Respondent during probation, the Board shall have
5 continuing jurisdiction and the period of probation shall be extended, until the petition to
6 revoke probation or accusation is heard and decided.

7 If Respondent has not complied with any term or condition of probation, the
8 Board shall have continuing jurisdiction over Respondent, and probation shall automatically
9 be extended until all terms and conditions have been satisfied or the Board has taken other
10 action as deemed appropriate to treat the failure to comply as a violation of probation, to
11 terminate probation, and to impose the penalty which was stayed.

12 15. **Completion of Probation.** Upon successful completion of probation,
13 Respondent's license will be fully restored.

14 16. **Rehabilitation Program - Pharmacists Recovery Program (PRP).**
15 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
16 Recovery Program for evaluation and shall successfully participate in and complete the
17 treatment contract and any subsequent addendums as recommended and provided by the PRP
18 and as approved by the Board. The costs for PRP participation shall be borne by the
19 Respondent.

20 If Respondent is currently enrolled in the PRP, said participation is now
21 mandatory and is no longer considered a self-referral under Business and Professions Code
22 section 4363, as of the effective date of this decision. Respondent shall successfully
23 participate in and complete his current contract and any subsequent addendums with the PRP.
24 Probation shall be automatically extended until Respondent successfully completes his
25 treatment contract. Any person terminated from the program shall be automatically suspended
26 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified
27 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate
28 probation for any violation of this term.

1 17. **Random Drug Screening.** Respondent, at his own expense, shall
2 participate in random testing, including but not limited to biological fluid testing (urine,
3 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
4 The length of time shall be for the entire probation period and the frequency of testing will be
5 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
6 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
7 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
8 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
9 in the immediate suspension of practice by Respondent. Respondent may not resume the
10 practice of pharmacy until notified by the Board in writing.

11 18. **Abstain from Drugs and Alcohol Use.** Respondent shall completely
12 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
13 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
14 practitioner as part of a documented medical treatment. Upon request of the Board,
15 Respondent shall provide documentation from the licensed practitioner that the prescription
16 was legitimately issued and is a necessary part of the treatment of the Respondent.

17 19. **No Ownership of Premises.** Respondent shall not own, have any legal
18 or beneficial interest in, or serve as a manager, administrator, member, officer, director,
19 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
20 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any
21 entity licensed by the Board within 90 days following the effective date of this decision and
22 shall immediately thereafter provide written proof thereof to the Board.

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

In the Matter of the Accusation Against:

KARL M. AHLWEDE
1121 No. L Street
Aberdeen, Washington 98520

and

P.O.Box 2445
Taholah, Washington 98587

Pharmacist License No. RPH 27148

Respondent.

Case No. 2783

OAH No. N2005010188

DECISION AND ORDER

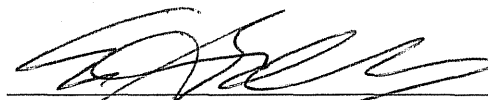
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 3, 2005.

It is so ORDERED May 4, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A
Accusation No. 2783

1 BILL LOCKYER, Attorney General
of the State of California
2 REBECCA HEINSTEIN, State Bar No. 173202
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

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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. 2783

12 KARL M. AHLWEDE
1121 No. L Street
13 Aberdeen, Washington 98520

A C C U S A T I O N

14 Pharmacist License No. RPH 22794

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
20 Affairs.

21 2. On or about December 31, 1969, the Board of Pharmacy issued Pharmacist
22 License No. RPH 22794 to Karl M. Ahlswede (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on April 30,
24 2006, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28

1 references are to the Business and Professions Code (Code) unless otherwise indicated.

2 4. Section 118(b) of the Code provides that the suspension, expiration,
3 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
4 disciplinary action during the period within which the license may be renewed, restored, reissued
5 or reinstated.

6 5. Section 4402(a) of the Code states that any pharmacist license that is not
7 renewed within three years following its expiration may not be renewed, restored, or reinstated
8 and shall be canceled by operation of law at the end of the three-year period.

9 6. Section 4300(a) of the Code states that every license issued may be
10 suspended or revoked.

11 7. Section 4301 of the Code states in relevant part that the Board shall take
12 action against any holder of a license who is guilty of unprofessional conduct or whose license
13 has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct
14 shall include, but is not limited to, any of the following:

15

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

19

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

22

23 8. Section 4327 of the Code states that any person who, while on duty, sells,
24 dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic
25 beverages shall be guilty of a misdemeanor.

26 9. Section 11170 of the Health and Safety Code states that no person shall
27 prescribe, administer, or furnish a controlled substance for himself.

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1 turpitude, dishonesty, fraud, deceit, or corruption by diverting a stock bottle of a Benzodiazepine
2 from Howard Medical Center for his own use.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Furnish Controlled Substance Without a Prescription)

5 16. Respondent is subject to disciplinary action under section 4301(j) of the
6 Code for the violation of Health and Safety Code section 11170 in that on or about November
7 23, 2003, Respondent furnished a Benzodiazepine to himself without a prescription.

8 **PRAYER**

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

- 11 1. Revoking or suspending Pharmacist License Number RPH 22794, issued
12 to Karl M. Ahlswede.
- 13 2. Ordering Karl M. Ahlswede to pay the Board of Pharmacy the reasonable
14 costs of the investigation and enforcement of this case, pursuant to Business and Professions
15 Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 12/13/04

18
19 *P. F. Harris*
20 PATRICIA F. HARRIS
21 Executive Officer
22 Board of Pharmacy
23 Department of Consumer Affairs
24 State of California
25 Complainant
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