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

10 In the Matter of the Accusation Against:

Case No. 2815

11 **KRISTIN LEASE OBERHAUS,**
aka KRISTIN ROLFE LEASE OBERHAUS
12 1538 Cree Street
South Lake Tahoe, CA 96150
13
14 Pharmacist License No. RPH 52971

STIPULATED SETTLEMENT;
ORDER AND DECISION

15
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
17 proceeding that the following matters are true:

18 PARTIES

19 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
20 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
21 by Bill Lockyer, Attorney General of the State of California, by Jessica M. Amgwerd, Deputy
22 Attorney General.

23 2. Kristin Lease Oberhaus, also known as Kristin Rolfe Lease Oberhaus
24 ("Respondent"), is represented by Stewart Katz, located at 555 University Ave., Suite 270,
25 Sacramento, CA 95825.

26 3. On or about September 14, 2001, the Board issued Pharmacist License No.
27 RPH 52971 to Respondent. On October 5, 2004, in the criminal proceeding entitled *People v.*
28 *Kristin Rolfe Lease Oberhaus* (El Dorado Sup. Ct., 2004, No. S04CRF0309), Respondent was

1 ordered to surrender her pocket and wall licenses to the Attorney General's Office pursuant to
2 Penal Code section 23. Respondent's pharmacist license was suspended effective October 2005.

3 JURISDICTION

4 4. Accusation No. 2815 was filed before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on March 1,
7 2005. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of
8 Accusation No. 2815 (also referred to as Case No. 2815) is attached as exhibit A and
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations
12 in Accusation No. 2815. Respondent also has carefully read, and understands the effects of this
13 Stipulated Surrender of License and Order.

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

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

23 8. This settlement shall be for the purposes of this proceedings, any future
24 proceedings before the parties and any other actions taken by or before any governmental agency
25 responsible for licensing, and shall not be used for any civil or criminal proceedings.

26 CULPABILITY

27 9 Respondent admits she violated Business and Professions Code sections
28 4301(f), 4301(j), 4301(h), and 4301(o), based upon the following conduct from September 2003

1 through June 2004, while working at Barton Hospital as the Pharmacy Director:

- 2 a. Respondent fraudulently appropriated and diverted controlled substances,
3 including Norco, Vicodin, Tylenol with codeine, and Xanax for her own
4 personal use. Respondent appropriated and diverted Effexor, a dangerous
5 drug.
- 6 b. Respondent furnished approximately 28 prescriptions of controlled
7 substances and dangerous drugs for her family and herself, in violation of
8 public policy, and failed to pay for all of the prescriptions.
- 9 c. Respondent possessed varying quantities of controlled substances,
10 including Norco, Vicodin, Tylenol with codeine, and Xanax, without a
11 lawful prescription.
- 12 d. Respondent self administered controlled substances, including Norco,
13 Vicodin, Tylenol with codeine, and Xanax.
- 14 e. Respondent used controlled substances containing hydrocodone, including
15 Norco, Vicodin, and Lorcet to an extent or in a manner dangerous or
16 injurious to herself and/or the public.
- 17 f. Respondent, while on duty as the Pharmacy Director at Barton Hospital,
18 dispensed compounded drugs while under the influence of controlled
19 substances, including Norco, Vicodin, Tylenol with codeine, and Xanax.

20 Respondent agrees that cause exists for discipline of her Pharmacist License No. RPH 52971.

21 Respondent also admits that on June 3, 2005, in the criminal case entitled, *People v. Kristin Rolfe*
22 *Lease Oberhaus*, (El Dorado Sup. Ct., 2004, No. S04CRF0309), she pled guilty to Penal Code
23 section 487(a), a misdemeanor.

24 10. Respondent understands that by signing this stipulation she enables the
25 Board to issue an order disciplining her Pharmacist License Number RPH 52971.

26 CONTINGENCY

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

1 the parties, and the Board shall not be disqualified from further action by having considered this
2 matter.

3 12. The parties understand and agree that facsimile copies of this Stipulated
4 Settlement, including facsimile signatures thereto, shall have the same force and effect as the
5 originals.

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

9 **ORDER**

10 IT IS HEREBY ORDERED that License No. RPH 52971, issued to Respondent
11 KRISTIN LEASE OBERHAUS, is revoked. The revocation, however, is immediately stayed
12 and Respondent is placed on a probation for five (5) years. Additionally, Respondent agrees to
13 the following terms and conditions:

14 1. **Suspension.** License No. RPH 52971 issued to Respondent is suspended
15 for one year, with credit for time documented not practicing. Additionally, prior to resuming
16 practice, Respondent must show evidence that the PRP approves a return to practice.

17 2. **Obey All Laws.** Respondent shall obey all state and federal laws and
18 regulations substantially related to or governing the practice of pharmacy.

19 Respondent shall report any of the following occurrences to the Board, in writing,
20 within 72 hours of such occurrence:

- 21 • An arrest or issuance of a criminal complaint for violation of any provision of the
22 Pharmacy Law, state and federal food and drug laws, or state and federal
controlled substances laws.
- 23 • A plea of guilty or nolo contendere in any state or federal criminal proceeding to
24 any criminal complaint, information or indictment.
- 25 • A conviction of any crime.
- 26 • Discipline, citation, or other administrative action filed by any state and federal
27 agency which involves Respondent's pharmacist license or which is related to
the practice of pharmacy or the manufacturing, obtaining, handling or
28 distribution or billing or charging for any drug, device or controlled substance.

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

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

11 5. **Cooperation with Board Staff.** Respondent shall cooperate with the
12 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
13 compliance with the terms and conditions of his probation. Failure to comply shall be
14 considered a violation of probation.

15 6. **Continuing Education.** Respondent shall provide evidence of efforts
16 to maintain skill and knowledge as a pharmacist as directed by the Board.

17 7. **Notice to Employers.** Respondent shall notify all present and
18 prospective employers of the decision in case number 2815 and the terms, conditions and
19 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
20 this decision, and within 15 days of Respondent undertaking new employment, Respondent
21 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
22 writing acknowledging the employer has read the decision in case number 2815. If
23 Respondent works for or is employed by or through a pharmacy employment service,
24 Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every
25 pharmacy of the and terms conditions of the decision in case number 2815 in advance of the
26 Respondent commencing work at each pharmacy.

27 "Employment" within the meaning of this provision shall include any full-time, part-
28 time, temporary, relief or pharmacy management service as a pharmacist, whether the

1 Respondent is considered an employee or independent contractor.

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

7 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board
8 its costs of investigation and prosecution in the amount of Eight Thousand Three Hundred
9 Dollars (\$8,300.00). Said costs shall be paid within sixty days of the effective date of the
10 Decision, or upon good cause shown Respondent may be permitted to pay quarterly payments
11 in a payment plan approved by the Board, with payments to be completed no later than three
12 months prior to the end of the probation term.

13 The filing of bankruptcy by Respondent shall not relieve Respondent of her
14 responsibility to reimburse the Board its costs of investigation and prosecution.

15 10. **Probation Monitoring Costs.** Respondent shall pay the costs
16 associated with probation monitoring as determined by the Board each and every year of
17 probation. Such costs shall be payable to the Board at the end of each year of probation.
18 Failure to pay such costs shall be considered a violation of probation.

19 11. **Status of License.** Respondent shall, at all times while on probation,
20 maintain an active current license with the Board, including any period during which
21 suspension or probation is tolled.

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

25 12. **License Surrender while on Probation/Suspension.** Following the
26 effective date of this decision, should Respondent cease practice due to retirement or health, or
27 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
28 her license to the Board for surrender. The Board shall have the discretion whether to grant

1 the request for surrender or take any other action it deems appropriate and reasonable. Upon
2 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
3 terms and conditions of probation.

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

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

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

21 "Cessation of practice" means any period of time exceeding 30 days in which
22 Respondent is not engaged in the practice of pharmacy as defined in Section
23 4052 of the Business and Professions Code.

24 **15. Supervised Practice.** Respondent shall practice only under the
25 supervision of a pharmacist not on probation with the Board. Respondent shall not practice
26 until the supervisor is approved by the Board. The supervision shall be, as required by the
27 Board, either:

28 Continuous - 75% to 100% of a work week

1 Substantial - At least 50% of a work week

2 Partial - At least 25% of a work week

3 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

4 Within 30 days of the effective date of this decision, Respondent shall have her
5 supervisor submit notification to the board in writing stating the supervisor has read the
6 decision in Case No. 2815 and is familiar with the level of supervision as determined by the
7 Board. If Respondent changes employment, respondent shall have her new supervisor, within
8 15 days after employment commences, submit notification to the Board in writing stating the
9 direct supervisor and pharmacist-in-charge have read the decision in Case No. 2815 and is
10 familiar with the level of supervision as determined by the Board.

11 Within 10, days of leaving employment, respondent shall notify the board in
12 writing.

13 16. **No Access to Controlled Substances.** As determined by the PRP,
14 Respondent shall not order, possess, dispense or otherwise have access to any controlled
15 substance(s) in Schedule II, III, IV or V (Health and Safety Code sections 11055-11058
16 inclusive). As determined by the PRP, Respondent shall not order, receive or retain any
17 triplicate prescription forms.

18 17. **Violation of Probation.** If Respondent violates probation in any
19 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
20 probation and carry out the disciplinary order which was stayed. If a petition to revoke
21 probation or an accusation is filed against Respondent during probation, the Board shall have
22 continuing jurisdiction and the period of probation shall be extended, until the petition to
23 revoke probation or accusation is heard and decided.

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

1 18. **Completion of Probation.** Upon successful completion of probation,
2 Respondent's license will be fully restored.

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

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

18 20. **Random Drug Screening.** Respondent, at her own expense, shall
19 participate in random testing, including but not limited to biological fluid testing (urine,
20 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
21 The length of time shall be for the entire probation period and the frequency of testing will be
22 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
23 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
24 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
25 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
26 in the immediate suspension of practice by Respondent. Respondent may not resume the
27 practice of pharmacy until notified by the Board in writing.

28 21. **Abstain from Drugs and Alcohol Use.** Respondent shall completely

1 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
2 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
3 practitioner as part of a documented medical treatment. Upon request of the Board,
4 Respondent shall provide documentation from the licensed practitioner that the prescription
5 was legitimately issued and is a necessary part of the treatment of the Respondent.

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

12 23. **Criminal Probation/Parole Reports.** Respondent shall provide a
13 copy of the conditions of any criminal probation/parole to the Board, in writing, within 10
14 days of the issuance or modification of those conditions. Respondent shall provide the name
15 of his probation/parole officer to the Board, in writing, within 10 days after that officer is
16 designated or a replacement for that officer is designated. Respondent shall provide a copy of
17 all criminal probation/parole reports to the Board within 10 days after Respondent receives a
18 copy of such a report.

19 24. **Tolling of Suspension.** If Respondent leaves California to reside or
20 practice outside this state, for any period exceeding 10 days (including vacation), Respondent
21 must notify the Board in writing of the dates of departure and return. Periods of residency or
22 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the
23 reduction of the suspension period.

24 Respondent shall not practice pharmacy upon returning to this state until
25 notified by the Board that the period of suspension has been completed.

26 **ACCEPTANCE**

27 I have carefully read the Stipulation, Decision and Order. I understand the
28 stipulation and the effect it will have on my Pharmacist License Number RPH 52971, and

1 have spoken to my attorney about the stipulation. I enter into this stipulation voluntarily,
2 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
3 Pharmacy.

4 DATED: 9-19-05.

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KRISTIN LEASE OBERHAUS
Respondent

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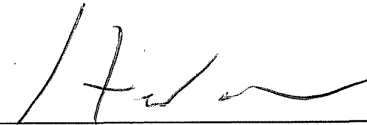
Dated: 9-21-05

STEWART KATZ

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By:


STEWART KATZ, ESQ.

11

Attorney for Respondent

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ENDORSEMENT

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The foregoing Stipulation is hereby respectfully submitted for consideration by
the Board of Pharmacy of the Department of Consumer Affairs.

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DATED: 9-26-2005.

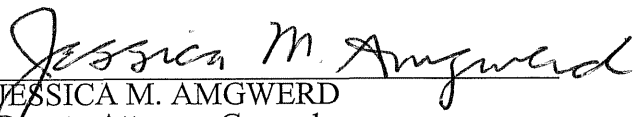
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BILL LOCKYER, Attorney General
of the State of California

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JESSICA M. AMGWERD
Deputy Attorney General

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Attorneys for Complainant

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

In the Matter of the Accusation Against:
In the Matter of the Accusation Against:

Case No. 2815

**KRISTIN LEASE OBERHAUS,
aka KRISTIN ROLFE LEASE
OBERHAUS**

1538 Cree Street
South Lake Tahoe, CA 96150

Pharmacist License No. RPH 52971

DECISION AND ORDER

The attached Stipulated Settlement 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 on November 10, 2005.

It is so ORDERED November 7, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

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Exhibit A
Accusation No. 2815

1 BILL LOCKYER, Attorney General
of the State of California
2 JESSICA M. AMGWERD, State Bar No. 155757
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
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5 Telephone: (916) 445-7376
Facsimile: (916) 327-8643

6 Attorneys for Complainant

7
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. 2815

12 **KRISTIN LEASE OBERHAUS,**
13 **aka KRISTIN ROLFE LEASE OBERHAUS**

ACCUSATION

13 1538 Cree Street
14 South Lake Tahoe, CA 96150

14 Pharmacist License No. RPH 52971

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about September 14, 2001, the Board issued Pharmacist License
23 Number RPH 52971 to Kristin Lease Oberhaus, also known as Kristin Rolfe Lease Oberhaus
24 ("Respondent"). On October 5, 2004, in the criminal proceeding titled *People v. Kristin Rolfe*
25 *Lease Oberhaus* (El Dorado Sup. Ct., 2004, No. S04CRF0309), Respondent was ordered to
26 surrender her pocket and wall licenses to the Attorney General's Office as a condition of bail,
27 pursuant to Penal Code section 23. Respondent's pharmacist license was suspended effective
28 October 2005, and will expire on August 31, 2005, unless renewed.

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I.

STATUTORY PROVISIONS

3. Business and Professions Code ("Bus. & Prof. Code") section 4300 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 . . .

4. Bus. & Prof. Code section 4301 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 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

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

....

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

....

(j) The violation of any of the statutes of this state or of the United

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States regulating controlled substances and dangerous drugs.
....

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

5. Bus. & Prof. Code section 4022 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.

6. Bus. & Prof. Code Section 4059, subdivision (a), states:

A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

7. Bus. & Prof. Code section 4060 states, in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

8. Bus. & Prof. Code section 4327 states that any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.

9. Health and Safety Code ("Health & Saf. Code") section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.

1 10. Health & Safety Code section 11350, subdivision (a), states the following:

2 Except as otherwise provided in this division, every person who
3 possesses (1) any controlled substance specified in subdivision (b) or
4 (c), or paragraph (1) of subdivision (f) of Section 11054, specified in
5 paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
6 specified in subdivision (b) or (c) of Section 11055, or specified in
7 subdivision (h) of Section 11056, or (2) any controlled
8 substance classified in Schedule III, IV, or V which is a narcotic drug,
9 unless upon the written prescription of a physician, dentist, podiatrist, or
10 veterinarian licensed to practice in this state, shall be punished by
11 imprisonment in the state prison.

12 11. Health & Safety Code section 11352, subdivision (a), states the following:

13 Except as otherwise provided in this division, every person who
14 transports, imports into this state, sells, furnishes, administers, or
15 gives away, or offers to transport, import into this state, sell, furnish,
16 administer, or give away, or attempts to import into this state or
17 transport (1) any controlled substance specified in subdivision (b),
18 (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
19 specified in paragraph (14), (15), or (20) of subdivision (d) of
20 Section 11054, or specified in subdivision (b) or (c) of
21 Section 11055 or specified in subdivision (h) of Section 11056, or
22 (2) any controlled substance classified in Schedule III, IV, or V
23 which is a narcotic drug, unless upon the written prescription of a
24 physician, dentist, podiatrist, or veterinarian licensed to practice in
25 this state, shall be punished by imprisonment in the state prison for
26 three, four, or five years.

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

II.

CONTROLLED SUBSTANCES/DANGEROUS DRUGS AT ISSUE

13 13. "Norco", "Vicodin", "Lorcet", and combination drugs containing
14 hydrocodone and acetaminophen, are Schedule III controlled substances as designated by Health
15 & Saf. Code section 11056, subdivision (e)(4), and dangerous drugs within the meaning of Bus.
16 & Prof. Code section 4022 in that they are available by prescription only.

17 14. "Tylenol (acetaminophen) with codeine" is a Schedule III controlled
18 substance as designated by Health & Safety Code section 11056, subdivision (e)(2), and a

1 dangerous drug within the meaning of Bus. & Prof. Code section 4022 in that it is available by
2 prescription only.

3 15. "Effexor", a brand name for Venlafaxine, is a dangerous drug within the
4 meaning of Bus. & Prof. Code section 4022 in that it is available by prescription only.

5 16. "Xanax," a brand name for alprazolam, is a Schedule IV controlled
6 substance as designated by Health & Saf. Code section 11057, subdivision (d)(1), and a
7 dangerous drug within the meaning of Bus. & Prof. Code section 4022 in that it is available by
8 prescription only.

9 III.

10 FACTUAL BACKGROUND

11 17. On May 23, 2002, Respondent was hired by Barton Memorial Hospital
12 (hereinafter "Barton Hospital"), South Lake Tahoe, California, as a staff pharmacist. On May
13 29, 2003, Respondent became the Pharmacy Director. Barton Hospital terminated Respondent
14 from her employment on June 24, 2004.

15 18. On June 28, 2004, the Board received a letter and an initial DEA - 106
16 form (Drug Enforcement Agency, Report of Theft or Loss of Controlled Substances) from
17 Kathy Cocking ("Cocking"), Director of Operations at Barton Hospital, indicating that a number
18 of Schedule III narcotics were unaccounted for while Respondent was employed as the
19 Pharmacy Director at the hospital. Cocking also indicated that 28 prescriptions had been filled
20 for Respondent's family members between January 2003, and May 2004, against hospital
21 policy.

22 19. On September 2, 2004, Respondent was interviewed by the Board's
23 inspector. Respondent admitted that she stole schedule III controlled substances containing
24 hydrocodone and codeine, including Norco, Vicodin, and Tylenol with codeine, from Barton
25 Hospital on numerous occasions from September 2003, to June 2004, for self-administration.
26 Respondent also admitted that she performed her duties as Pharmacy Director while under the
27 influence of controlled substances and filled 28 prescriptions for dangerous drugs and controlled
28 substances for her family and herself from hospital stock, without paying for the medications.

1 20. On or about September 14, 2004, in the criminal proceeding identified in
2 paragraph 2 above, Respondent was charged with grand theft by embezzlement, in violation of
3 Penal Code section 487, subdivision (a), a felony. The matter is currently pending.

4 **IV.**

5 **STATUTORY VIOLATIONS**

6 **(B&P 4301(f))**

7 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

8 21. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
9 section 4301, subdivision (f), on the grounds of unprofessional conduct. From September 2003
10 through June 2004, while employed as the Pharmacy Director at Barton Hospital, Respondent
11 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, including the
12 following:

13 a. Respondent dishonestly and fraudulently appropriated and diverted
14 controlled substances, including, but not limited to, Norco, Vicodin, Tylenol with codeine, and
15 Xanax from Barton Hospital, for her own personal use. Further, Respondent dishonestly and
16 fraudulently appropriated and diverted unknown quantities of dangerous drugs including, but
17 not limited to, Effexor.

18 b. Respondent furnished approximately 28 prescriptions of controlled
19 substances and dangerous drugs for her family members and herself that were filled or taken
20 from Barton Hospital stock, in violation of hospital policy.

21 **(B&P 4301(j))**

22 (Violations of State Laws Regulating Controlled Substances/Dangerous Drugs)

23 22. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
24 section 4301, subdivision (j), on the grounds of unprofessional conduct. From September 2003
25 through June 2004, while employed as the Pharmacy Director at Barton Hospital, Respondent
26 violated the following statutes of this state regulating controlled substances and dangerous
27 drugs:

28 a. Respondent possessed varying quantities of controlled substances,

1 including, but not limited to, Norco, Vicodin, Tylenol with codeine, and Xanax without lawful
2 prescriptions for the medications from a physician, dentist, podiatrist, optometrist, or
3 veterinarian, in violation of Bus. & Prof. Code section 4060 and Health & Saf. Code section
4 11350, subdivision (a).

5 b. Respondent furnished unknown quantities of dangerous drugs for her
6 family members and herself, which she took from Barton Hospital stock, without lawful
7 prescriptions for the medications from a physician, dentist, podiatrist, optometrist, or
8 veterinarian, in violation of Bus. & Prof. Code section 4059, subdivision (a).

9 c. Respondent prescribed, administered, or furnished unknown quantities of
10 controlled substances to herself that were filled or taken from Barton Hospital stock, in violation
11 of Health & Saf. Code section 11170.

12 d. Respondent furnished and administered controlled substances to herself
13 and/or her family members, without lawful prescriptions for the medications from a physician,
14 dentist, podiatrist, or veterinarian licensed to practice in this state, in violation of Health & Saf.
15 Code section 11352, subdivision (a).

16 **(B&P 4301(h))**
17 (Self-Administration of Controlled Substances)

18 23. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
19 section 4301, subdivision (h), on the grounds of unprofessional conduct. From September 2003
20 through June 2004, while employed as the Pharmacy Director at Barton Hospital, Respondent
21 committed the following acts:

22 a. Respondent self-administered controlled substances, including, but not
23 limited to, Norco, Vicodin, Tylenol with codeine, and Xanax.

24 b. Respondent used controlled substances containing hydrocodone, including,
25 but not limited to, Norco, Vicodin, and Lorcet, to an extent or in a manner dangerous or
26 injurious to herself and/or the public. Respondent self-administered approximately 15 to 20
27 tablets of medications containing hydrocodone each day and on some days, as many as 30
28 tablets. Respondent exhibited "bizarre" behavior, mood swings, lack of direction, and

1 disorganization as observed and reported by hospital staff.

2 **(B&P 4301(o))**
3 (Dispensing/Compounding Drugs While Under the Influence of Controlled Substances)

4 24. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
5 section 4301, subdivision (o), on the grounds of unprofessional conduct. From September 2003
6 through June 2004, Respondent violated or attempted to violate, directly or indirectly, or
7 assisted in or abetted the violation of, or conspired to violate, Bus. & Prof. Code section 4327.
8 Respondent, while on duty as the Pharmacy Director at Barton Hospital, dispensed or
9 compounded drugs while under the influence of controlled substances including, but not limited
10 to, Norco, Vicodin, Tylenol with codeine, and Xanax.

11 **PRAYER**

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

- 14 1. Revoking or suspending Pharmacist License Number RPH 52971, issued
15 to Kristin Lease Oberhaus, also known as Kristin Rolfe Lease Oberhaus;
- 16 2. Ordering Kristin Lease Oberhaus, also known as Kristin Rolfe Lease
17 Oberhaus, to pay the Board of Pharmacy the reasonable costs of the investigation and
18 enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: March 1, 2005

21
22 *Jessica M. Amgwerd, for*
23 PATRICIA F. HARRIS

24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California

28 Complainant