

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

In the Matter of the Accusation
Against:

**OAKDALE PHARMACY; CHRISTEN YUNAH
KIM, OWNER/PHARMACIST-IN-CHARGE
1390 West H Street, Suite F
Oakdale, CA 95361**

Pharmacy Permit No. PHY 50734

and

**CHRISTEN YUNAH KIM
1390 West H Street, Suite F
Oakdale, CA 95361**

Pharmacist License No. RPH 62576

Respondents.

Case No. 5666

OAH No. 2017021145

**STIPULATED SETTLEMENT OF
LICENSE AND ORDER AS TO
CHRISTEN YUNAH KIM
ONLY**

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on September 7, 2017.

It is so ORDERED on August 8, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 DANIEL D. MCGEE
Deputy Attorney General
4 State Bar No. 218947
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5666

12 **OAKDALE PHARMACY; CHRISTEN**
13 **YUNAH KIM, OWNER/PHARMACIST-**
14 **IN-CHARGE**
1390 West H Street, Suite F
Oakdale, CA 95361

OAH No. 2017021145

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
CHRISTEN YUNAH KIM ONLY¹

15 Pharmacy Permit No. PHY 50734

16 and

17 **CHRISTEN YUNAH KIM**
18 1390 West H Street, Suite F
Oakdale, CA 95361

19 Pharmacist License No. RPH 62576

20 Respondents.

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

24 PARTIES

- 25 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy

26
27 ¹ This Stipulated Settlement and Disciplinary Order applies to Respondent Christen Yunah
28 Kim's Pharmacist License No. RPH 62576 only. A separate Stipulated Settlement and
Disciplinary Order is being entered into with Oakdale Pharmacy.

1 (Board). She brought this action solely in her official capacity and is represented in this matter by
2 Xavier Becerra, Attorney General of the State of California, by Daniel D. McGee, Deputy
3 Attorney General.

4 2. Respondent Christen Yunah Kim (Respondent) is represented in this proceeding by
5 attorney Jonathan Turner, whose address is:

6 Law Office of Jonathan Turner
7 1007 7th Street, Suite 304
8 Sacramento, CA 95814

9 3. On or about July 27, 2009, the Board issued Original Pharmacist License No. RPH
10 62576 to Christen Yunah Kim (Respondent). The Pharmacist License was in full force and effect
11 at all times relevant to the charges brought in Accusation No. 5666, and will expire on June 30,
12 2019, unless renewed.

13 4. On or about October 4, 2011, the Board issued Pharmacy Permit No. PHY 50734 to
14 Respondent, as the owner and pharmacist-in-charge of Oakdale Pharmacy. The Pharmacy Permit
15 was in full force and effect at all times relevant to the charges brought in Accusation No. 5666,
16 and will expire on October 1, 2017, unless renewed.

17 JURISDICTION

18 5. Accusation No. 5666 was filed before the Board, and is currently pending against
19 Respondent. The Accusation and all other statutorily required documents were properly served
20 on Respondent on June 27, 2016. Respondent timely filed her Notice of Defense contesting the
21 Accusation.

22 6. A copy of Accusation No. 5666 is attached as Exhibit A and incorporated herein by
23 reference.

24 ADVISEMENT AND WAIVERS

25 7. Respondent has carefully read, fully discussed with counsel, and understands the
26 charges and allegations in Accusation No. 5666. Respondent has also carefully read, fully
27 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
28 Order.

8. Respondent is fully aware of her legal rights in this matter, including the right to a

1 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
2 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
3 to the issuance of subpoenas to compel the attendance of witnesses and the production of
4 documents; the right to reconsideration and court review of an adverse decision; and all other
5 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

8 CULPABILITY

9 10. For the purpose of resolving the Accusation without the expense and uncertainty of
10 further proceedings, Respondent agrees that the charges and allegations in Accusation No. 5666,
11 if proven at a hearing, constitute cause for imposing discipline upon her Original Pharmacist
12 License No. RPH 62576. Respondent hereby gives up her right to contest those charges.

13 11. Respondent agrees that her Pharmacist License is subject to discipline and she agrees
14 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

15 CONTINGENCY

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

25 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
26 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
27 signatures thereto, shall have the same force and effect as the originals.

28 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an

1 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
2 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
3 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
4 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
5 writing executed by an authorized representative of each of the parties.

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

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Pharmacist License No. RPH 62567 issued to Respondent
11 Christen Yunah Kim is revoked. However, the revocation is stayed and Respondent is placed on
12 probation for six (6) years on the following terms and conditions.

13 **1. Suspension**

14 As part of probation, Respondent is suspended from the practice of pharmacy until such
15 time that Respondent completes six (6) hours of in person remedial education in corresponding
16 responsibility and/or prescription drug abuse. This education must be acquired and completed
17 after the effective date of this decision.

18 During suspension, Respondent shall not enter any pharmacy area or any portion of the
19 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
20 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
21 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
22 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
23 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
24 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
25 and devices or controlled substances.

26 Respondent shall not engage in any activity that requires the professional judgment of a
27 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
28 Respondent shall not perform the duties of a pharmacy technician or a designated representative

1 for any entity licensed by the Board.

2 Subject to the above restrictions, Respondent may continue to own or hold an interest in
3 any licensed premises in which she holds an interest at the time this decision becomes effective
4 unless otherwise specified in this order.

5 Failure to comply with this suspension shall be considered a violation of probation.

6 **2. Obey All Laws**

7 Respondent shall obey all state and federal laws and regulations.

8 Respondent shall report any of the following occurrences to the Board, in writing, within
9 seventy-two (72) hours of such occurrence:

- 10 • an arrest or issuance of a criminal complaint for violation of any provision of the
11 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
12 substances laws
- 13 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
14 criminal complaint, information or indictment
- 15 • a conviction of any crime
- 16 • discipline, citation, or other administrative action filed by any state or federal agency
17 which involves Respondent's pharmacist license, pharmacy permit, or which is
18 related to the practice of pharmacy or the manufacturing, obtaining, handling,
19 distributing, billing, or charging for any drug, device or controlled substance.

20 Failure to timely report such occurrence shall be considered a violation of probation.

21 **3. Report to the Board**

22 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
23 designee. The report shall be made either in person or in writing, as directed. Among other
24 requirements, Respondent shall state in each report under penalty of perjury whether there has
25 been compliance with all the terms and conditions of probation. Failure to submit timely reports
26 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
27 in submission of reports as directed may be added to the total period of probation. Moreover, if
28 the final probation report is not made as directed, probation shall be automatically extended until

1 such time as the final report is made and accepted by the Board.

2 **4. Interview with the Board**

3 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
4 with the Board or its designee, at such intervals and locations as are determined by the Board or
5 its designee. Failure to appear for any scheduled interview without prior notification to Board
6 staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee
7 during the period of probation, shall be considered a violation of probation.

8 **5. Cooperate with Board Staff**

9 Respondent shall cooperate with the Board's inspection program and with the Board's
10 monitoring and investigation of Respondent's compliance with the terms and conditions of her
11 probation. Failure to cooperate shall be considered a violation of probation.

12 **6. Continuing Education**

13 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
14 pharmacist as directed by the Board or its designee.

15 **7. Notice to Employers**

16 During the period of probation, Respondent shall notify all present and prospective
17 employers of the decision in case number 5666 and the terms, conditions and restrictions imposed
18 on Respondent by the decision, as follows:

19 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
20 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,
21 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
22 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
23 individual(s) has/have read the decision in case number 5666, and terms and conditions imposed
24 thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or
25 supervisor(s) submit timely acknowledgment(s) to the Board.

26 If Respondent works for or is employed by or through a pharmacy employment service,
27 Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
28 licensed by the Board of the terms and conditions of the decision in case number 5666 in advance

1 of the Respondent commencing work at each licensed entity. A record of this notification must
2 be provided to the Board upon request.

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
4 (15) days of Respondent undertaking any new employment by or through a pharmacy
5 employment service, Respondent shall cause her direct supervisor with the pharmacy
6 employment service to report to the Board in writing acknowledging that she has read the
7 decision in case number 5666 and the terms and conditions imposed thereby. It shall be
8 Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely
9 acknowledgment(s) to the Board.

10 Failure to timely notify present or prospective employer(s) or to cause that/those
11 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
12 probation.

13 "Employment" within the meaning of this provision shall include any full-time, part-time,
14 temporary, relief or pharmacy management service as a pharmacist or any position for which a
15 pharmacist license is a requirement or criterion for employment, whether the Respondent is an
16 employee, independent contractor or volunteer.

17 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
18 **Designated Representative-in-Charge, or Serving as a Consultant**

19 During the period of probation, Respondent shall not supervise any intern pharmacist, be
20 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
21 Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
22 unauthorized supervision responsibilities shall be considered a violation of probation.

23 **9. Reimbursement of Board Costs**

24 As a condition precedent to successful completion of probation, Respondent, jointly and
25 severally with Oakdale Pharmacy, shall pay to the Board its costs of investigation and prosecution
26 in the amount of \$17,500.00.

27 Respondent shall be permitted to pay these costs in a payment plan approved by the Board
28 or its designee. There shall be no deviation from this schedule absent prior written approval by

1 the Board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a
2 violation of probation.

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

5 **10. Probation Monitoring Costs**

6 Respondent shall pay any costs associated with probation monitoring as determined by the
7 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
8 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
9 shall be considered a violation of probation.

10 **11. Status of License**

11 Respondent shall, at all times while on probation, maintain an active, current license with
12 the Board, including any period during which suspension or probation is tolled. Failure to
13 maintain an active, current license shall be considered a violation of probation.

14 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
15 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
16 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
17 probation not previously satisfied.

18 **12. License Surrender While on Probation/Suspension**

19 Following the effective date of this decision, should Respondent cease practice due to
20 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
21 Respondent may tender her license to the Board for surrender. The Board or its designee shall
22 have the discretion whether to grant the request for surrender or take any other action it deems
23 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
24 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
25 record of discipline and shall become a part of the Respondent's license history with the Board.

26 Upon acceptance of the surrender, Respondent shall relinquish her pocket and wall license
27 to the Board within ten (10) days of notification by the Board that the surrender is accepted.
28 Respondent may not reapply for any license from the Board for three (3) years from the effective

1 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
2 of the date the application for that license is submitted to the Board, including any outstanding
3 costs.

4 **13. Notification of a Change in Name, Residence Address, Mailing Address or**
5 **Employment**

6 Respondent shall notify the Board in writing within ten (10) days of any change of
7 employment. Said notification shall include the reasons for leaving, the address of the new
8 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
9 shall further notify the Board in writing within ten (10) days of a change in name, residence
10 address, mailing address, or phone number.

11 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
12 phone number(s) shall be considered a violation of probation.

13 **14. Tolling of Probation**

14 Except during periods of suspension, Respondent shall, at all times while on probation, be
15 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
16 month during which this minimum is not met shall toll the period of probation, i.e., the period of
17 probation shall be extended by one month for each month during which this minimum is not met.
18 During any such period of tolling of probation, Respondent must nonetheless comply with all
19 terms and conditions of probation.

20 Should Respondent, regardless of residency, for any reason (including vacation) cease
21 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
22 Respondent must notify the Board in writing within ten (10) days of the cessation of practice, and
23 must further notify the Board in writing within ten (10) days of the resumption of practice. Any
24 failure to provide such notification(s) shall be considered a violation of probation.

25 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
26 provisions of this condition for a total period, counting consecutive and non-consecutive months,
27 exceeding thirty-six (36) months.

28 "Cessation of practice" means any calendar month during which Respondent is not

1 practicing as a pharmacist for at least 40 hours, as defined by Business and Professions Code
2 section 4000, *et seq.* "Resumption of practice" means any calendar month during which
3 Respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as defined by
4 Business and Professions Code section 4000, *et seq.*

5 **15. Violation of Probation**

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

11 If Respondent violates probation in any respect, the Board, after giving Respondent notice
12 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
13 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
14 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
15 a petition to revoke probation or an accusation is filed against Respondent during probation, the
16 Board shall have continuing jurisdiction and the period of probation shall be automatically
17 extended until the petition to revoke probation or accusation is heard and decided, and the charges
18 and allegations in Accusation No. 5666 shall be deemed true and correct.

19 **16. Completion of Probation**

20 Upon written notice by the Board or its designee indicating successful completion of
21 probation, Respondent's license will be fully restored.

22 **17. Remedial Education**

23 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
24 Board or its designee, for prior approval, an appropriate program of remedial education related to
25 the issues of prescription drug abuse, corresponding responsibility and/or pharmacy
26 security/inventory controls. The program of remedial education shall consist of at least 10 hours
27 of education per year of probation, of which at least 50% must be in person. However, the six (6)
28 hours of in person education that Respondent must complete before the suspension against her is

1 lifted (*see* Term 16, above) shall count toward her remedial education requirements for the first
2 year of probation. Therefore, Respondent shall only be required to complete an additional four
3 (4) hours of remedial education during her first year of probation.

4 The remedial education shall be completed at Respondent's own expense. All remedial
5 education shall be in addition to, and shall not be credited toward, continuing education (CE)
6 courses used for license renewal purposes.

7 Failure to timely submit or complete the approved remedial education shall be considered a
8 violation of probation. The period of probation will be automatically extended until such
9 remedial education is successfully completed and written proof, in a form acceptable to the
10 Board, is provided to the Board or its designee.

11 Following the completion of each course, the Board or its designee may require the
12 Respondent, at her own expense, to take an approved examination to test the Respondent's
13 knowledge of the course. If the Respondent does not achieve a passing score on the examination,
14 this failure shall be considered a violation of probation. Any such examination failure shall
15 require Respondent to take another course approved by the Board in the same subject area.

16 **18. Supervised Practice**

17 During the period of probation, Respondent shall practice only under the supervision of a
18 licensed pharmacist not on probation with the Board. Upon and after the effective date of this
19 decision, Respondent shall not practice pharmacy and her license shall be automatically
20 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,
21 as required by the Board or its designee, either:

22 Continuous – At least 75% of a work week

23 Substantial - At least 50% of a work week

24 Partial - At least 25% of a work week

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

26 Within thirty (30) days of the effective date of this decision, Respondent shall have her
27 supervisor submit notification to the Board in writing stating that the supervisor has read the
28 decision in case number 5666 and is familiar with the required level of supervision as determined

1 by the Board or its designee. It shall be the Respondent's responsibility to ensure that her
2 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
3 Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
4 acknowledgements to the Board shall be considered a violation of probation.

5 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
6 that her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
7 acknowledgement(s) to the Board. Respondent shall have her new supervisor, within fifteen (15)
8 days after employment commences, submit notification to the Board in writing stating the direct
9 supervisor and pharmacist-in-charge have read the decision in case number 5666 and is familiar
10 with the level of supervision as determined by the Board. Respondent shall not practice
11 pharmacy and her license shall be automatically suspended until the Board or its designee
12 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
13 submit timely acknowledgements to the Board shall be considered a violation of probation.

14 Within ten (10) days of leaving employment, Respondent shall notify the Board in writing.

15 During suspension, Respondent shall not enter any pharmacy area or any portion of the
16 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
17 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
18 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
19 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
20 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
21 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
22 and controlled substances. Respondent shall not resume practice until notified by the Board.

23 During suspension, Respondent shall not engage in any activity that requires the
24 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
25 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
26 designated representative for any entity licensed by the Board.

27 Subject to the above restrictions, Respondent may continue to own or hold an interest in
28 any licensed premises in which she holds an interest at the time this decision becomes effective

1 unless otherwise specified in this order.

2 Failure to comply with this suspension shall be considered a violation of probation.

3 **19. Tolling of Suspension**

4 During the period of suspension, Respondent shall not leave California for any period
5 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
6 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
7 absence from California during the period of suspension exceeding ten (10) days shall toll the
8 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
9 Respondent is absent from California. During any such period of tolling of suspension,
10 Respondent must nonetheless comply with all terms and conditions of probation.

11 Respondent must notify the Board in writing within ten (10) days of departure, and must
12 further notify the Board in writing within ten (10) days of return. The failure to provide such
13 notification(s) shall constitute a violation of probation. Upon such departure and return,
14 Respondent shall not resume the practice of pharmacy until notified by the Board that the period
15 of suspension has been satisfactorily completed.

16 **20. No New Ownership**

17 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
18 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
19 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
20 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
21 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
22 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
23 that interest, but only to the extent of that position or interest as of the effective date of this
24 decision. Violation of this restriction shall be considered a violation of probation.

25 **21. Ethics Course**

26 Within sixty (60) calendar days of the effective date of this decision, Respondent shall
27 enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its
28 designee. Failure to initiate the course during the first year of probation, and complete it within

1 the second year of probation, is a violation of probation.

2 Respondent shall submit a certificate of completion to the Board or its designee within five
3 days after completing the course.

4 ACCEPTANCE

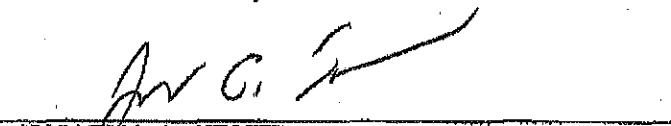
5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
6 discussed it with my attorney, Jonathan Turner. I understand the stipulation and the affect it will
7 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
8 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
9 Board of Pharmacy.

10 DATED: 7/14/17


CHRISTEN YUNAH KIM, Respondent

12 I have read and fully discussed with Respondent Christen Yunah Kim the terms and
13 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
14 I approve its form and content.

16 DATED: 7-14-17


JONATHAN TURNER
Attorney for Respondent

19 ENDORSEMENT

20 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
21 submitted for consideration by the Board of Pharmacy.

22 Dated: 7/14/2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General

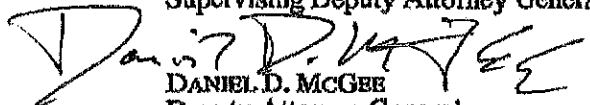

DANIEL D. MCGEE
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 5666

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
4 State Bar No. 283580
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6 Telephone: (916) 327-6819
Facsimile: (916) 327-8643
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:	Case No. 5666
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15 1390 West H Street, Suite F	
16 Oakdale, CA 95361	
17 Pharmacy Permit No. PHY 50734	
18 and	
19 CHRISTEN YUNAH KIM	
20 1390 West H Street, Suite F	
21 Oakdale, CA 95361	
22 Pharmacist License No. RPH 62576	
23 Respondents.	

22 Complainant alleges:

23 **PARTIES**

- 24 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity
25 as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.
26 2. On or about October 4, 2011, the Board issued Pharmacy Permit Number PHY 50734
27 to Christen Yunah Kim ("Respondent"), owner and pharmacist-in-charge of Oakdale Pharmacy.

28 ///

1 The pharmacy permit was in full force and effect at all times relevant to the charges brought
2 herein and will expire on October 1, 2016, unless renewed.

3 3. On or about July 27, 2009, the Board issued Pharmacist License Number RPH 62576
4 to Respondent. The pharmacist license was in full force and effect at all times relevant to the
5 charges brought herein and will expire on June 30, 2017, unless renewed.

6 **JURISDICTION/STATUTORY AND REGULATORY PROVISIONS**

7 4. This Accusation is brought before the Board under the authority of the following
8 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
9 indicated.

10 5. Code section 4300 states, in pertinent part:

11 (a) Every license issued may be suspended or revoked.

12 (b) The board shall discipline the holder of any license issued by the
13 board, whose default has been entered or whose case has been heard by the board and
found guilty, by any of the following methods:

14 (1) Suspending judgment.

15 (2) Placing him or her upon probation.

16 (3) Suspending his or her right to practice for a period not exceeding one
17 year.

18 (4) Revoking his or her license.

19 (5) Taking any other action in relation to disciplining him or her as the
board in its discretion may deem proper . . .

20 6. Code section 4300.1 states:

21 The expiration, cancellation, forfeiture, or suspension of a board-issued
22 license by operation of law or by order or decision of the board or a court of law, the
23 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
24 investigation of, or action or disciplinary proceeding against, the licensee or to render
a decision suspending or revoking the license.

25 7. Code section 4301 states, in pertinent part:

26 The board shall take action against any holder of a license who is guilty
27 of unprofessional conduct . . . Unprofessional conduct shall include, but is not limited
to, any of the following:

28

1 (d) The clearly excessive furnishing of controlled substances in violation
of subdivision (a) of Section 11153 of the Health and Safety Code.

2

3 (j) The violation of any of the statutes of this state, or any other state, or
4 of the United States regulating controlled substances and dangerous drugs.

5

6 (o) Violating or attempting to violate, directly or indirectly, or assisting in
7 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
8 pharmacy, including regulations established by the board or by any other state or
federal regulatory agency

8 8. Code section 4306.5 states, in pertinent part:

9 Unprofessional conduct for a pharmacist may include any of the
10 following:

11 (a) Acts or omissions that involve, in whole or in part, the inappropriate
12 exercise of his or her education, training, or experience as a pharmacist, whether or
not the act or omission arises in the course of the practice of pharmacy or the
13 ownership, management, administration, or operation of a pharmacy or other entity
licensed by the board.

14 (b) Acts or omissions that involve, in whole or in part, the failure to
15 exercise or implement his or her best professional judgment or corresponding
responsibility with regard to the dispensing or furnishing of controlled substances,
16 dangerous drugs, or dangerous devices, or with regard to the provision of services.

17 (c) Acts or omissions that involve, in whole or in part, the failure to
18 consult appropriate patient, prescription, and other records pertaining to the
performance of any pharmacy function . . .

19 9. Code section 4307, subdivision (a) states:

20 Any person who has been denied a license or whose license has been
revoked or is under suspension, or who has failed to renew his or her license while it
21 was under suspension, or who has been a manager, administrator, owner, member,
officer, director, associate, or partner of any partnership, corporation, firm, or
22 association whose application for a license has been denied or revoked, is under
suspension or has been placed on probation, and while acting as the manager,
23 administrator, owner, member, officer, director, associate, or partner had knowledge
of or knowingly participated in any conduct for which the license was denied,
24 revoked, suspended, or placed on probation, shall be prohibited from serving as a
manager, administrator, owner, member, officer, director, associate, or partner of a
licensee as follows:

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

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

1 10. Code section 4113, subdivision (c), states that "[t]he pharmacist-in-charge shall be
2 responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining
3 to the practice of pharmacy."

4 11. Health and Safety Code section 11153, subdivision (a), states:

5 A prescription for a controlled substance shall only be issued for a
6 legitimate medical purpose by an individual practitioner acting in the usual course of
7 his or her professional practice. The responsibility for the proper prescribing and
8 dispensing of controlled substances is upon the prescribing practitioner, but a
9 corresponding responsibility rests with the pharmacist who fills the prescription.
10 Except as authorized by this division, the following are not legal prescriptions: (1) an
11 order purporting to be a prescription which is issued not in the usual course of
12 professional treatment or in legitimate and authorized research; or (2) an order for an
13 addict or habitual user of controlled substances, which is issued not in the course of
14 professional treatment or as part of an authorized narcotic treatment program, for the
15 purpose of providing the user with controlled substances, sufficient to keep him or her
16 comfortable by maintaining customary use.

17 12. Health and Safety Code section 11162.1 states, in pertinent part:

18 (a) The prescription forms for controlled substances shall be printed with
19 the following features:

20 (1) A latent, repetitive "void" pattern shall be printed across the entire
21 front of the prescription blank; if a prescription is scanned or photocopied, the word
22 "void" shall appear in a pattern across the entire front of the prescription.

23 (2) A watermark shall be printed on the backside of the prescription
24 blank; the watermark shall consist of the words "California Security Prescription."

25

26 (4) A feature printed in thermochromic ink.

27

28 (8) Prescription blanks shall contain a statement printed on the bottom of
the prescription blank that the "Prescription is void if the number of drugs prescribed
is not noted."

....

(13) An identifying number assigned to the approved security printer by
the Department of Justice.

(14)(A) A check box by the name of each prescriber when a prescription
form lists multiple prescribers.

....

(b) Each batch of controlled substance prescription forms shall have the

1 lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one . . .

2 13. Health and Safety Code section 11164 states, in pertinent part:

3 Except as provided in Section 11167, no person shall prescribe a
4 controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

5 (a) Each prescription for a controlled substance classified in Schedule II,
6 III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 . . .

7 14. Title 21, Code of Federal Regulations ("CFR"), section 1301.75, subdivision (b),
8 states that "[c]ontrolled substances listed in Schedules II, III, IV, and V shall be stored in a
9 securely locked, substantially constructed cabinet. However, pharmacies and institutional
10 practitioners may disperse such substances throughout the stock of noncontrolled substances in
11 such a manner as to obstruct the theft or diversion of the controlled substances."

12 15. Title 16, California Code of Regulations ("CCR"), section 1711 states, in pertinent
13 part:

14 (a) Each pharmacy shall establish or participate in an established quality
15 assurance program which documents and assesses medication errors to determine
16 cause and an appropriate response as part of a mission to improve the quality of
17 pharmacy service and prevent errors.

18

19 (c)(1) Each quality assurance program shall be managed in accordance
20 with written policies and procedures maintained in the pharmacy in an immediately
21 retrievable form.

22

23 (e) The primary purpose of the quality assurance review shall be to
24 advance error prevention by analyzing, individually and collectively, investigative
25 and other pertinent data collected in response to a medication error to assess the cause
26 and any contributing factors such as system or process failures. A record of the
27 quality assurance review shall be immediately retrievable in the pharmacy . . .

28 (f) The record of the quality assurance review, as provided in subdivision
(e) shall be immediately retrievable in the pharmacy for at least one year from the
date the record was created . . .

16. CCR section 1714 states, in pertinent part:

. . . .

(d) Each pharmacist while on duty shall be responsible for the security of

1 the prescription department, including provisions for effective control against theft or
2 diversion of dangerous drugs and devices, and records for such drugs and devices . . .

3 17. CCR section 1761 states:

4 (a) No pharmacist shall compound or dispense any prescription which
5 contains any significant error, omission, irregularity, uncertainty, ambiguity or
6 alteration. Upon receipt of any such prescription, the pharmacist shall contact the
7 prescriber to obtain the information needed to validate the prescription.

8 (b) Even after conferring with the prescriber, a pharmacist shall not
9 compound or dispense a controlled substance prescription where the pharmacist
10 knows or has objective reason to know that said prescription was not issued for a
11 legitimate medical purpose.

12 COST RECOVERY

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

17 DRUG CLASSIFICATIONS

18 19. "Norco" is the brand name for a compound consisting of hydrocodone and
19 acetaminophen and is used to treat pain. Norco is a Schedule II controlled substance pursuant to
20 Code of Federal Regulations, section 1308.12, subdivision (b)(1)(vi).

21 20. "Roxicodone" is a brand name for oxycodone. Oxycodone is a Schedule II controlled
22 substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M), and is used
23 to treat pain.

24 21. "Phenergan with codeine" is a brand name for promethazine with codeine.
25 Promethazine with codeine is a Schedule V controlled substance pursuant to Health and Safety
26 Code section 11058, subdivision (c)(1), and is used to treat cough.

27 22. All of the above controlled substances are dangerous drugs pursuant to Code section
28 4022.

FACTUAL ALLEGATIONS

23 23. On or about March 11, 2015, a Board Inspector conducted a complaint investigation
24 at Oakdale Pharmacy and determined that Respondent and her husband, technician Steve Kim
25 ("Kim"), had violated the Pharmacy Law. An audit revealed that Kim stole 545 dosage units of

1 Adderall 30 mg immediate-release (IR) tablets and 600 dosage units of Adderall 30 mg extended-
2 release (XR) capsules. The inspector found that Schedule II controlled substances had been
3 dispersed among the stock of non-controlled substances in the pharmacy and that Kim had access
4 to the alarm system code and Respondent's keys, allowing him to enter the facility in the middle
5 of the night and steal the drugs. The inspector also found questionable practices as to the
6 dispensing of controlled substances, and an internal complaint was opened against Oakdale
7 Pharmacy by the Board.

8 24. Board Inspector T. requested and analyzed CURES data for Oakdale Pharmacy and
9 identified irregularities or "red flags" pertaining to certain prescriptions, all of which were written
10 by Dr. Terrill Eugene Brown. Dr. Brown surrendered his physician's and surgeon's certificate to
11 the Medical Board of California effective June 24, 2013.¹

12 25. On or about May 20, 2015, Board Inspectors T. and K. conducted an inspection at
13 Oakdale Pharmacy and were assisted by Respondent. The inspectors obtained prescription hard
14 copies that were written by Dr. Brown and identified during the review of the CURES data.
15 Inspector T. found, among other things, that the majority of prescriptions written by Dr. Brown
16 were assigned consecutive prescription numbers, indicating that the pharmacy typed the
17 prescriptions sequentially and that a customer dropped off multiple prescriptions or multiple
18 individuals came in groups to pick up their medications. Inspector T. asked Respondent to
19 explain the circumstances surrounding the consecutive prescription numbers. Respondent stated
20 that at first, one person came in with a prescription from Dr. Brown, then "all these people started
21 coming." Initially, one person would bring in three or four prescriptions for several people.
22 Later, groups of people began arriving with prescriptions from Dr. Brown. Respondent stated
23 that she had the ability to access the PDMP (Prescription Drug Monitoring Program)².

24
25 ¹ Dr. Brown was charged in a grand jury indictment with illegally distributing and
26 dispensing Schedule II controlled substances and structuring transactions to evade reporting
requirements. Dr. Brown pled guilty to the charges and was sentenced to 57 months in prison.

27 ² The PDMP is a component of CURES and is accessible to pharmacists and prescribers.
28 The data from the PDMP may be used to aid in determining if a patient see multiple prescribers,
goes to multiple pharmacies to have controlled substance prescriptions filled and/or has

(continued...)

1 26. During the inspection, Inspector K. found the pharmacy's Schedule II controlled
2 substances sequestered in various drawers. Each of the drawers had hasps; however, the padlocks
3 were unlocked and several of the drawers did not have a lock. Inspector T. also found that
4 Quality Assurance reports were not immediately retrievable in the pharmacy.

5 27. Inspector T. requested that Respondent provide her with all electronic pharmacy
6 dispensing records (controlled and non-controlled substances) for the period from March 1, 2012
7 to March 12, 2015, and gave her a blank CD. Respondent inserted the CD into the pharmacy
8 computer, burned the requested files onto the CD, and provided it to the inspector.

9 28. Inspector T. selected several of Dr. Brown's patients who had prescriptions filled at
10 Oakdale Pharmacy and obtained CURES Patient Activity Reports for each patient from the
11 Board. The reports indicated that the patients were "doctor shopping" in that they would obtain
12 prescriptions for the same controlled substance from different physicians, including Dr. Brown.
13 The patients would then have the prescriptions filled at different pharmacies, including Oakdale
14 Pharmacy ("pharmacy shopping"). The reports also showed that the patients were receiving early
15 refills of the controlled substances, oftentimes many days in advance of the previously dispensed
16 supply being exhausted.

17 29. Inspector T. determined based on her analysis of the CURES data, the prescription
18 hard copies, Oakdale Pharmacy's dispensing data and the CURES Patient Activity Reports that
19 from March 1, 2012 to March 12, 2015, the pharmacy dispensed numerous prescriptions for
20 controlled substances without regard to the following factors:

21 a. Dr. Brown practiced General Preventative Medicine, but only wrote prescriptions for
22 hydrocodone with acetaminophen 10/325 mg tablets, oxycodone 30 mg tablets, and promethazine
23 with codeine syrup. Dr. Brown did not prescribe non-controlled substances to his patients.

24 b. 100% of the prescriptions written by Dr. Brown and dispensed by the pharmacy were
25 paid for with cash.

26
27 _____
28 (...continued)
controlled substance prescriptions refilled early.

1 c. Multiple patients of Dr. Brown, with prescriptions for identical controlled substances,
2 presented to the pharmacy around the same time:

3 d. Dr. Brown's patients paid cash for high retail cost medications without the benefit of
4 insurance.

5 e. All of Dr. Brown's patients received the highest tablet strength of oxycodone (most
6 patients received two tablets per dose) with no evidence of upward titration from a lower dose.

7 f. Dr. Brown had two medical offices, one located in Fresno, approximately 98 miles
8 from Oakdale Pharmacy, and the other located in Visalia, approximately 143 miles from the
9 pharmacy.

10 g. Dr. Brown's patients traveled far distances in order to obtain controlled substance
11 prescriptions from Dr. Brown and to have those prescriptions filled at Oakdale pharmacy.
12 Several of his patients travelled from Victorville (approximately 343 miles from Oakdale
13 pharmacy) and Long Beach (approximately 345 miles from Oakdale pharmacy). In some
14 instances, his patients provided a Northern California address, however, their license listed an
15 address in Long Beach or nearby city.

16 h. Multiple patients of Dr. Brown resided at the same address and received very similar
17 prescriptions for controlled substances.

18 i. Multiple prescriptions were written on forms that were not in compliance with Health
19 and Safety Code section 11162.1, as set forth in paragraph 30 below.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Excessive Furnishing of Controlled Substances)**

22 30. Respondent's pharmacy permit is subject to disciplinary action for unprofessional
23 conduct pursuant to Code section 4301, subdivision (d), in that Respondent, as owner of Oakdale
24 Pharmacy, clearly excessively furnished the controlled substances hydrocodone with
25 acetaminophen 10/325 mg tablets, oxycodone 30 mg tablets, and promethazine with codeine
26 syrup, in violation of Health and Safety Code section 11153, subdivision (a), as follows: On and
27 between March 1, 2012 and March 12, 2015, Respondent dispensed numerous prescriptions for
28 the above controlled substances when she knew or had objective reason to know that said

1 prescriptions were not issued for a legitimate medical purpose based on the irregularities or "red
2 flags" set forth in paragraph 28 above. Further, Respondent failed to assume her corresponding
3 responsibility when she failed to appropriately scrutinize patients' drug therapies with readily
4 available tools, such as the PDMP and her own pharmacy records, resulting in the repeated early
5 dispensing of controlled substances due to patients who engaged in "doctor shopping" and poly-
6 pharmacy activity.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Dispensing of Controlled Substances Based on**

9 **Prescription Forms Not in Compliance with the Law)**

10 31. Respondent's pharmacy permit is subject to disciplinary action for unprofessional
11 conduct pursuant to Code section 4301, subdivision (j), in that Respondent, as owner of Oakdale
12 Pharmacy, violated Health and Safety Code section 11164 when she filled, compounded, or
13 dispensed approximately 31 prescriptions for hydrocodone with acetaminophen 10/325 mg
14 tablets, oxycodone-30 mg tablets, and/or promethazine with codeine syrup based on controlled
15 substance prescription forms, written by Dr. Brown (obtained during the Board's inspection of
16 May 20, 2015), that were not in compliance with Health and Section 11162.1, as follows:

17 a. The prescription forms did not have a latent, repetitive "void" pattern printed across
18 the entire front of the prescription blank.

19 b. The prescription forms did not have a watermark printed on the backside of the
20 prescription blank consisting of the words "California Security Prescription."

21 c. The prescription forms did not have a feature printed in thermochromic ink.

22 d. The prescription forms did not contain a statement printed on the bottom of the
23 prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

24 e. The prescription forms did not have an identifying number assigned to the approved
25 security printer by the Department of Justice.

26 f. The prescription forms did not have a check box by the name of each prescriber when
27 the prescription formed listed multiple prescribers.

28

1 g. Each batch of controlled substance prescription forms did not have the lot number
2 printed on the form and/or each form within the batch was not numbered sequentially beginning
3 with the numeral one.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Quality Assurance Program)**

6 32. Respondent's pharmacy permit is subject to disciplinary action for unprofessional
7 conduct pursuant to Code section 4301, subdivision (o), in that Respondent, as owner of Oakdale
8 Pharmacy, failed to have available at the pharmacy any quality assurance review records or
9 reports to provide to the inspector during the inspection, in violation of CCR section 1711.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Failure to Maintain Pharmacy, Fixtures, and Equipment**

12 **so that Drugs Were Safely and Properly Secured)**

13 33. Respondent's pharmacy permit is subject to disciplinary action for unprofessional
14 conduct pursuant to Code section 4301, subdivisions (o) and (j), in that Respondent, as owner of
15 Oakdale Pharmacy, failed to maintain the pharmacy and its facilities, space, fixtures and/or
16 equipment so that drugs were safely and properly secured, in violation of CCR section 1714,
17 subdivision (d), and failed to store Schedule II, III, IV, and/or V Controlled Substances in
18 securely locked, substantially constructed cabinets, in violation of CFR section 1301.75,
19 subdivision (b), as follows: On or about May 20, 2015, Respondent failed to ensure that Schedule
20 II Controlled Substances were stored in locked cabinets or dispersed throughout the pharmacy's
21 stock of noncontrolled substances.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Excessive Furnishing of Controlled Substances)**

24 34. Respondent's pharmacist license is subject to disciplinary action for unprofessional
25 conduct pursuant to Code section 4301, subdivision (d), in that Respondent, while acting as the
26 pharmacist-in-charge at Oakdale Pharmacy, clearly excessively furnished the controlled
27 substances hydrocodone with acetaminophen 10/325 mg tablets, oxycodone 30 mg tablets, and
28 promethazine with codeine syrup, in violation of Health and Safety Code section 11153,

1 subdivision (a), as follows: On and between March 1, 2012 and March 12, 2015, Respondent
2 dispensed numerous prescriptions for the above controlled substances when she knew or had
3 objective reason to know that said prescriptions were not issued for a legitimate medical purpose
4 based on the irregularities or "red flags" set forth in paragraph 28 above. Further, Respondent
5 failed to assume her corresponding responsibility when she failed to appropriately scrutinize
6 patients' drug therapies with readily available tools, such as the PDMP and her own pharmacy
7 records, resulting in the repeated early dispensing of controlled substances due to patients who
8 engaged in "doctor shopping" and poly-pharmacy activity.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct)**

11 35. Respondent's pharmacist license is subject to disciplinary action for unprofessional
12 conduct pursuant to Code sections 4301 and 4306.5, subdivisions (a) through (c), in that
13 Respondent, while acting as the pharmacist-in-charge at Oakdale Pharmacy, failed to
14 appropriately exercise her education, training, or experience as a pharmacist, failed to exercise or
15 implement her best professional judgment or corresponding responsibility with regard to the
16 dispensing or furnishing of controlled substances and dangerous drugs, and failed to consult
17 appropriate patient, prescription, and other records pertaining to the performance of her pharmacy
18 function, as set forth in paragraph 33 above.

19 **SEVENTH CAUSE FOR DISCIPLINE**

20 **(Dispensing of Controlled Substances Based on Prescription**

21 **Forms Not in Compliance with the Law)**

22 36. Respondent's pharmacist license is subject to disciplinary action for unprofessional
23 conduct pursuant to Code section 4301, subdivision (j), in that Respondent, while acting as the
24 pharmacist-in-charge at Oakdale Pharmacy, violated Health and Safety Code section 11164 when
25 she filled, compounded, or dispensed approximately 31 prescriptions for hydrocodone with
26 acetaminophen 10/325 mg tablets, oxycodone 30 mg tablets, and/or promethazine with codeine
27 syrup based on controlled substance prescription forms, written by Dr. Brown (obtained during
28

1 the Board's inspection of May 20, 2015), that were not in compliance with Health and Section
2 11162.1, as follows:

3 a. The prescription forms did not have a latent, repetitive "void" pattern printed across
4 the entire front of the prescription blank.

5 b. The prescription forms did not have a watermark printed on the backside of the
6 prescription blank consisting of the words "California Security Prescription."

7 c. The prescription forms did not have a feature printed in thermochromic ink.

8 d. The prescription forms did not contain a statement printed on the bottom of the
9 prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

10 e. The prescription forms did not have an identifying number assigned to the approved
11 security printer by the Department of Justice.

12 f. The prescription forms did not have a check box by the name of each prescriber when
13 the prescription formed listed multiple prescribers.

14 g. Each batch of controlled substance prescription forms did not have the lot number
15 printed on the form and/or each form within the batch was not numbered sequentially beginning
16 with the numeral one.

17 **EIGHTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Quality Assurance Program)**

19 37. Respondent's pharmacist license is subject to disciplinary action for unprofessional
20 conduct pursuant to Code section 4301, subdivision (o), in that Respondent, while acting as the
21 pharmacist-in-charge at Oakdale Pharmacy, failed to have available at the pharmacy any quality
22 assurance review records or reports, in violation of CCR section 1711.

23 **NINTH CAUSE FOR DISCIPLINE**

24 **(Failure to Maintain Pharmacy, Fixtures, and Equipment**

25 **so that Drugs Were Safely and Properly Secured)**

26 38. Respondent's pharmacist license is subject to disciplinary action for unprofessional
27 conduct pursuant to Code section 4301, subdivisions (o) and (j), in that Respondent, while acting
28 as the pharmacist-in-charge at Oakdale Pharmacy, failed to maintain the pharmacy and its

1 facilities, space, fixtures and/or equipment so that drugs were safely and properly secured, in
2 violation of CCR section 1714, subdivision (d), and failed to store Schedule II, III, IV, and/or V
3 Controlled Substances in securely locked, substantially constructed cabinets, in violation of CFR
4 section 1301.75, subdivision (b), as follows: On or about May 20, 2015, Respondent failed to
5 ensure that Schedule II Controlled Substances were stored in locked cabinets or dispersed
6 throughout the pharmacy's stock of noncontrolled substances.

7 **OTHER MATTERS**

8 39. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
9 PHY 50734 issued to Oakdale Pharmacy, Oakdale Pharmacy shall be prohibited from serving as a
10 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
11 five years if Pharmacy Permit Number PHY 50734 is placed on probation or until Pharmacy
12 Permit Number PHY 50734 is reinstated if it is revoked.

13 40. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
14 PHY 50734 issued to Oakdale Pharmacy while Christen Yunah Kim has been an officer and/or
15 owner and had knowledge of or knowingly participated in any conduct for which the licensee was
16 disciplined, Christen Yunah Kim shall be prohibited from serving as a manager, administrator,
17 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
18 Permit Number PHY 50434 is placed on probation or until Pharmacy Permit Number PHY 50734
19 is reinstated if it is revoked.

20 **MATTERS IN AGGRAVATION**

21 41. To determine the degree of discipline to be assessed against Respondent, if any,
22 Complainant alleges as follows:

23 a. On or about March 11, 2015, a Board Inspector conducted a complaint investigation
24 at Oakdale Pharmacy, as set forth in paragraph 22 above. On or about May 21, 2015, the Board
25 issued Citation and Fine No. CI 2014 65415 against Respondent's pharmacy permit for violating
26 CCR section 1714, subdivision (d) (failure to maintain adequate security of the prescription
27 department). The Board ordered Respondent to pay a fine of \$750 by June 20, 2015. Respondent
28 paid the citation in full on November 4, 2015.

1 b. On or about May 21, 2015, the Board issued Citation and Fine No. CI 2014 65416
2 against Respondent's pharmacist license for violating CCR section 1714, subdivision (d) (failure
3 to maintain adequate security of the prescription department), following the complaint
4 investigation referenced in subparagraph (a) above. The Board ordered Respondent to pay a fine
5 of \$500 by June 20, 2015. Respondent paid the citation in full on November 4, 2015.

6 **PRAYER**

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

9 1. Revoking or suspending Pharmacy Permit Number PHY 50734, issued to Christen
10 Yunah Kim, owner of Oakdale Pharmacy;

11 2. Revoking or suspending Pharmacist License Number RPH 62576, issued to Christen
12 Yunah Kim;

13 3. Prohibiting Oakdale Pharmacy from serving as a manager, administrator, owner,
14 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
15 Number PHY 50734 is placed on probation or until Pharmacy Permit Number PHY 50734 is
16 reinstated if Pharmacy Permit Number 50734 issued to Oakdale Pharmacy is revoked;

17 4. Prohibiting Christen Yunah Kim from serving as a manager, administrator, owner,
18 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
19 Number PHY 50734 is placed on probation or until Pharmacy Permit Number PHY 50734 is
20 reinstated if Pharmacy Permit Number 50734 issued to Oakdale Pharmacy is revoked;

21 4. Ordering Christen Yunah Kim, individually, and as owner of Oakdale Pharmacy, to
22 pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
23 pursuant to Business and Professions Code section 125.3; and

24 5. Taking such other and further action as deemed necessary and proper.

25 DATED: 6/13/16

Virginia Herold
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant