

1 BILL LOCKYER, Attorney General
of the State of California
2 ERLINDA SHRENGER, State Bar No. 155904
Deputy Attorney General
3 California Department of Justice
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Telephone: (213) 897-5794
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6 Attorneys for Complainant

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

10 In the Matter of the Accusation and Petition to
Revoke Probation and the First Supplemental
11 Accusation and Petition to Revoke Probation
Against:

12 OLDE TOWNE DRUG
835 12th Street
13 Paso Robles, CA 93446
Pharmacy Permit No. PHY41082

14 and

15 LAYNE R. KILPATRICK
16 172 Edgewater Lane
Paso Robles, CA 93446
17 Pharmacy License No. RPH 42675

18 Respondents.
19

Case No. 2378

OAH No. L-2002080457

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
21 proceeding that the following matters are true:
22

23 PARTIES

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

28 2. Layne R. Kilpatrick is represented in this proceeding by attorney Gregory

1 Jacobson, whose address is 974 Walnut Street, San Luis Obispo, CA 93401.

2 3. On or about August 8, 1989, the Board of Pharmacy issued Pharmacy
3 License No. RPH 42675 to Layne R. Kilpatrick ("Respondent Kilpatrick"). The license will
4 expire on August 31, 2003, if not renewed.

5 4. On or about October 13, 1995, the Board of Pharmacy issued Pharmacy
6 Permit No. PHY 41082 to Layne R. Kilpatrick to do business as Olde Towne Drug ("Respondent
7 Pharmacy"). The Pharmacy Permit will expire on October 1, 2001, if not renewed.

8 JURISDICTION

9 5. Accusation and Petition to Revoke Probation No. 2378 ("Original
10 Accusation/Petition") was filed on March 7, 2002 before the Board of Pharmacy ("Board"),
11 Department of Consumer Affairs, and is currently pending against Respondents Kilpatrick and
12 Pharmacy. The Original Accusation/Petition and all other statutorily required documents were
13 properly served on said Respondents on March 7, 2002. Respondents timely filed their Notice of
14 Defense contesting the Original Accusation/Petition. A copy of the Original Accusation/Petition
15 is attached as Exhibit A and incorporated herein by reference.

16 6. On October 22, 2002, a First Supplemental Accusation and Petition to
17 Revoke Probation ("Supplemental Accusation/Petition") was filed before the Board in Case
18 No. 2378, and is currently pending against Respondents Kilpatrick and Pharmacy. The
19 Supplemental Accusation/Petition and all other statutorily required documents were properly
20 served on said Respondents on October 22, 2002. A copy of the Supplemental
21 Accusation/Petition is attached as Exhibit B and incorporated herein by reference.

22 ADVISEMENT AND WAIVERS

23 7. Respondents Kilpatrick and Pharmacy have carefully read, fully discussed
24 with counsel, and understand the charges and allegations in the Original Accusation/Petition and
25 the Supplemental Accusation/Petition. Respondents also have carefully read, fully discussed
26 with counsel, and understand the effects of this Stipulated Surrender of License and Order.

27 8. Respondents Kilpatrick and Pharmacy are fully aware of their legal rights
28 in this matter, including the right to a hearing on the charges and allegations in the Original

1 Accusation/Petition and the Supplemental Accusation/Petition; the right to be represented by
2 counsel, at their own expense; the right to confront and cross-examine the witnesses against
3 them; the right to present evidence and to testify on their own behalf; the right to the issuance of
4 subpoenas to compel the attendance of witnesses and the production of documents; the right to
5 reconsideration and court review of an adverse decision; and all other rights accorded by the
6 California Administrative Procedure Act and other applicable laws.

7 9. Respondents Kilpatrick and Pharmacy voluntarily, knowingly, and
8 intelligently waive and give up each and every right set forth above.

9 CULPABILITY

10 10. Respondents Kilpatrick and Pharmacy understand that the charges and
11 allegations in the Original Accusation/Petition and the Supplemental Accusation/Petition, if
12 proven at a hearing, constitute cause for imposing discipline upon their Pharmacy License and
13 Pharmacy Permit.

14 11. For the purpose of resolving the Original Accusation/Petition and the
15 Supplemental Accusation/Petition, without the expense and uncertainty of further proceedings,
16 Respondents Kilpatrick and Pharmacy agree that, at a hearing, Complainant could establish a
17 factual basis for the charges in the Original Accusation/Petition and the Supplemental
18 Accusation/Petition, and that those charges constitute cause for discipline. Respondents hereby
19 give up their right to contest that cause for discipline exists based on those charges.

20 12. Respondents Kilpatrick and Pharmacy understand that by signing this
21 stipulation they enable the Board to issue its order accepting the surrender of their Pharmacy
22 License and Pharmacy Permit without further process.

23 CONTINGENCY

24 13. This stipulation shall be subject to approval by the Board of Pharmacy.
25 Respondents understand and agree that counsel for Complainant and the staff of the Board of
26 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
27 without notice to or participation by Respondents or their counsel. By signing the stipulation,
28 Respondents understand and agree that they may not withdraw their agreement or seek to rescind

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 12-17-02.

BILL LOCKYER, Attorney General
of the State of California

Erlinda Shrenger
ERLINDA SHRENGER
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation and Petition to
Revoke Probation and the First Supplemental
Accusation and Petition to Revoke Probation
Against:

OLDE TOWNE DRUG
835 12th Street
Paso Robles, CA 93446
Pharmacy Permit No. PHY41082

and

LAYNE R. KILPATRICK
172 Edgewater Lane
Paso Robles, CA 93446
Pharmacy License No. RPH 42675

Respondents.

Case No. 2378

OAH No. L-2002080457

DECISION AND ORDER

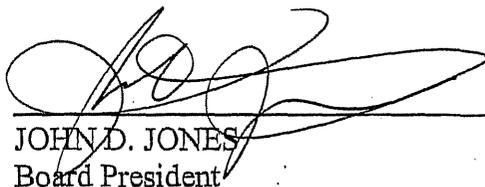
The attached Stipulated Surrender of License and Order is hereby adopted by the
Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 10, 2003.

It is so ORDERED March 11, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A

Accusation and Petition to Revoke Probation

1 BILL LOCKYER, Attorney General
of the State of California
2 ERLINDA G. SHRENGER, State Bar No. 155904
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-5794
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

12 OLDE TOWNE DRUG
13 835 12th Street
Paso Robles, CA 93446
14 Pharmacy Permit No. PHY41082

15 and

16 LAYNE R. KILPATRICK
17 172 Edgewater Lane
Paso Robles, CA 93446
Pharmacy License No. RPH 42675

18 Respondents.

Case No. 2378

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

19
20 Complainant alleges:

21 PARTIES

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

25 2. On or about October 13, 1995, the Board of Pharmacy issued PHY
26 License Number 41082 to Layne R. Kilpatrick to do business as Olde Towne Drug ("Respondent
27 Olde Towne"). The Pharmacist-in-charge since October 13, 1995 is Layne Kilpatrick. The
28 license will expire on October 1, 2001, if not renewed.

1 of the board.

2 8. Section 125.3 of the Code states, in pertinent part, that the Board may
3 request the administrative law judge to direct a licentiate found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 9. Grounds exist for revoking probation and reimposing the Order of
7 Revocation against the respective licenses of Respondent Olde Towne and Respondent
8 Kilpatrick for unprofessional conduct, pursuant to Section 4300 of the Code, as defined in
9 Section 4301(q) of the Code, as follows:

10 a. Respondent Kilpatrick failed to respond to two letters from the Board
11 dated December 5, 1999 and June 26, 2000, respectively, regarding allegations made against him
12 and his pharmacy in the investigation of a complaint made by L. O. [The December 5th letter is
13 erroneously dated "December 5, 2000". The year should have been "1999".]

14 b. On our about June 26, 2000, a violation notice was issued and mailed to
15 Respondents.

16 10. Grounds exist for revoking probation and reimposing the Order of
17 Revocation against the respective licenses of Respondent Olde Towne and Respondent
18 Kilpatrick for unprofessional conduct, pursuant to Section 4300 of the Code, as defined in
19 Section 4301(o), and Title 16, California Code of Regulations, Section 1708.2, in that
20 Respondents failed to notify the Board of the discontinuance of Respondents' business.

21 **PETITION TO REVOKE PROBATION**

22 11. The allegations of paragraphs 1 through 10, above, are realleged and
23 incorporated herein by reference as if set forth in full.

24 12. Pursuant to the Stipulation, effective April 5, 2000, Original Permit
25 Number PHY 41082, issued to Respondent Olde Towne was revoked, but the revocation was
26 stayed and Respondent Olde Towne was placed on probation for three (3) years, subject to
27 certain terms and conditions. Original Licentiate number RPH 42675 issued to Respondent
28 Kilpatrick was revoked, but the revocation was stayed and Respondent Kilpatrick was suspended

1 for 30 days beginning from the effective date of the Decision and placed on probation for three
2 (3) years, subject to certain terms and conditions.

3 13. Pursuant to Section 4300(d) of the Code and Title 16, California Code
4 of Regulations, Section 1773, grounds exist for revoking probation, vacating the stay, and
5 reimposing the Order of Revocation because Respondents Kilpatrick and Olde Towne violated
6 the terms and conditions of probation, as follows:

7 a. Respondents violated Term No. 8 of the Stipulation, as alleged and more
8 fully set forth in paragraph 9, above, in that Respondents failed to cooperate with the Board's
9 inspectional program and in the Board's monitoring and investigation of Respondents'
10 compliance with the terms and conditions of their probation.

11 b. Respondent Kilpatrick violated Term No. 2, on page 5 of the Stipulation,
12 by failing to take and pass the law section of the California pharmacist licensure examination.

13 c. Respondent Kilpatrick violated Term No. 3, on page 6 of the Stipulation,
14 by failing to submit a course in ethics to the Board for its approval and successfully complete
15 such course.

16 d. Respondents violated Term No. 5, on page 7 of the Stipulation, by failing
17 to notify the Board of the discontinuance of Respondents' business, as required by Title 16,
18 California Code of Regulations, Section 1708.2.

19 e. Respondents violated Term No. 6, on page 7 of the Stipulation, by failing
20 to report to the Board on a quarterly basis.

21 f. Respondents violated Term No. 10, on page 8 of the Stipulation, by failing
22 to provide the Board with evidence of efforts to maintain skill and knowledge as a pharmacist, as
23 directed by the Board.

24 g. Respondent Olde Towne violated Term No. 15, on page 10 of the
25 Stipulation, by failing to maintain, at all times while on probation, an active current license with
26 the Board.

27 ///

28 ///

PRAYER

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

1. Revoking or suspending PHY License Number 41082, issued to Olde Towne Drug;
2. Revoking or suspending RPH License Number 42675, issued to Layne Kilpatrick;
3. Ordering Olde Towne Drug and Layne Kilpatrick to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
4. Taking such other and further action as deemed necessary and proper.

DATED: 3/7/07



PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

03583110-LA2001AD0633

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

In the Matter of the Accusation and Petition to Revoke Probation Against:

Olde Towne Drug and Layne R. Kilpatrick

Agency Case No. 2378

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On March 13, 2002, I served the attached **Accusation and Petition to Revoke Probation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Accusation and Petition to Revoke Probation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery and Discovery Statutes** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 So. Spring St., Los Angeles, CA 90013, addressed as follows:

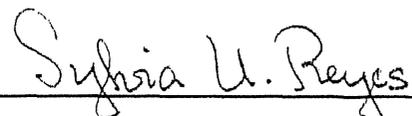
Olde Towne Drug
835 12th Street
Paso Robles, CA 93446
7001 0360 0003 2719 7718

Layne R. Kilpatrick
172 Edgewater Lane
Paso Robles, CA 93446
7001 0360 0003 2719 7725

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 13, 2002, at Los Angeles, California.

Sylvia Reyes

Typed Name



Signature

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 0360 0000 2719 7718

OFFICIAL USE

| | | |
|---|----|------------------|
| Postage | \$ | Postmark Here |
| Certified Fee | | |
| Return Receipt Fee (Endorsement Required) | | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total Postage & Fees | \$ | |

Sent To

..... **Olde Towne Drug**

*Street, Apt. No.;
or PO Box No.* **835 12th Street**

City, State, ZIP+ 4 **Paso Robles, CA 93446**

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 0360 0003 2719 7725

OFFICIAL USE

| | | |
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| Postage | \$ | Postmark Here |
| Certified Fee | | |
| Return Receipt Fee (Endorsement Required) | | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total Postage & Fees | \$ | |

Sent To

..... **Layne R. Kilpatrick**

*Street, Apt. No.;
or PO Box No.* **172 Edgewater Lane**

City, State, ZIP+ 4 **Paso Robles, CA 93446**

PS Form 3800, January 2001 See Reverse for Instructions

Exhibit B

First Supplemental Accusation and Petition to Revoke Probation

1 BILL LOCKYER, Attorney General
of the State of California
2 ERLINDA G. SHRENGER, State Bar No. 155904
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-5794
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6 Attorneys for Complainant

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

9

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11 In the Matter of the First Supplemental
Accusation and Petition to Revoke Probation
12 Against:

Case No. 2378

OAH No. L-2002080457

13 OLDE TOWNE DRUG
835 12th Street
14 Paso Robles, CA 93446
Pharmacy Permit No. PHY41082

**FIRST SUPPLEMENTAL
ACCUSATION AND PETITION TO
REVOKE PROBATION**

15

and

16

LAYNE R. KILPATRICK
17 172 Edgewater Lane
Paso Robles, CA 93446
18 Pharmacy License No. RPH 42675

19

Respondents.

20

21 Complainant Patricia F. Harris (Complainant), in her official capacity as the
22 Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, brings this First
23 Supplemental Accusation and Petition to Revoke Probation, and hereby supplements the
24 Accusation and Petition to Revoke Probation filed on March 7, 2002 in this matter, and further
25 alleges as follows:

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Paragraph Nos. 1 through 13, inclusive, of the Accusation and Petition to Revoke
Probation filed on March 7, 2002 are incorporated herein by reference as if set forth in full.

FIRST SUPPLEMENTAL ACCUSATION

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2 14. Section 4300(d) of the Business and Professions Code (“Code”) states that
3 the Board may initiate disciplinary proceedings to revoke or suspend any probationary certificate
4 of licensure for any violation of the terms and conditions of probation. Upon satisfactory
5 completion of probation, the Board shall convert the probationary certificate to a regular
6 certificate, free of conditions.

7 15. Section 4301 of the Code provides that the Board shall take action against
8 any holder of a license who is guilty of unprofessional conduct or whose license has been
9 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall
10 include, but is not limited to, any of the following:

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

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

16 16. Section 4022 of the Code defines “Dangerous Drugs” as any drug that is
17 unsafe for self-medication and which by federal or state law can be lawfully dispensed only on
18 prescription.

19 17. Section 4059(a) of the Code states, in pertinent part, that no person shall
20 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
21 optometrist, or veterinarian. No person shall furnish any dangerous device, except upon the
22 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

23 18. Section 4060 of the Code states that no person shall possess any controlled
24 substance, except that furnished to a person upon the prescription of a physician or furnished
25 pursuant to a drug order issued by a physician assistant or a nurse.

26 19. Section 4005(a) of the Code states that the Board may adopt rules and
27 regulations, not inconsistent with the laws of this state, as may be necessary for the protection of
28 the public. Included therein shall be the right to adopt rules and regulations as follows: for the

1 proper and more effective enforcement and administration of this chapter; pertaining to the
2 practice of pharmacy; relating to the sanitation of persons and establishments licensed under this
3 chapter; pertaining to establishments wherein any drug or device is compounded, prepared,
4 furnished, or dispensed; providing for standards of minimum equipment for establishments
5 licensed under this chapter; and pertaining to the sale of drugs by or through any mechanical
6 device.

7 20. Section 4140 of the Code states that no person shall possess or have under
8 his or her control any hypodermic needle or syringe except when acquired in accordance with
9 this article.

10 21. Title 16, California Code of Regulations, section 1764 states that no
11 pharmacist shall exhibit, discuss, or reveal the contents of any prescription, the therapeutic effect
12 thereof, the nature, extent, or degree of illness suffered by any patient or any medical information
13 furnished by the prescriber with any person other than the patient or his or her authorized
14 representative, the prescriber or other licensed practitioner then caring for the patient, another
15 licensed pharmacist serving the patient, or a person duly authorized by law to receive such informati

16 22. Title 16, California Code of Regulations, section 1770, states that a crime
17 or act shall be considered substantially related to the qualifications, functions or duties of a
18 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
19 licensee or registrant to perform the functions authorized by her license or registration in a
20 manner consistent with the public health, safety, or welfare.

21 23. Title 16, California Code of Regulations, section 1773, provides in part,
22 that unless otherwise directed by the Board in its sole discretion, any pharmacist who is serving a
23 period of probation shall comply with the Board's conditions.

24 24. Health & Safety Code section 11170 states that no person shall prescribe,
25 administer, or furnish a controlled substance for himself.

26 25. Health and Safety Code section 11350(a) states, in pertinent
27 part that except as otherwise provided in this division, every person who possesses any
28 controlled substance which is a narcotic drug, unless upon the written prescription of a physician

- 1 36. "Clindamycin" is a dangerous drug as defined by section 4022 of the Code.
- 2 37. "Enalapril" is a dangerous drug as defined by section 4022 of the Code.
- 3 38. "Erythromycin" is a dangerous drug as defined by section 4022 of the Code.
- 4 39. "Hydrocortisone" is a dangerous drug as defined by section 4022 of the
- 5 Code.
- 6 40. "Ibuprofen" is a dangerous drug as defined by section 4022 of the Code.
- 7 41. "Lithium Carbonate" is a dangerous drug as defined by section 4022 of the
- 8 Code.
- 9 42. "Naproxen" is a dangerous drug as defined by section 4022 of the Code.
- 10 43. "Omeprazole" is a dangerous drug as defined by section 4022 of the Code.
- 11 44. "Primidone" is a dangerous drug as defined by section 4022 of the Code.
- 12 45. "Prochlorperzaine" is a dangerous drug as defined by section 4022 of the
- 13 Code.
- 14 46. "Tetracycline" is a dangerous drug as defined by section 4022 of the Code.
- 15 47. "Theophylline" is a dangerous drug as defined by section 4022 of the Code.
- 16 48. "Ephedrine Sulfate Powder" is a dangerous drug as defined by section 4022
- 17 of the Code.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

- 20 49. Respondent Layne R. Kilpatrick ("Respondent" or "Respondent
- 21 Kilpatrick") has subjected his license to discipline pursuant to section 4301 of the Code for
- 22 unprofessional conduct, as follows:
- 23 a. From approximately October 2001 through July 2002, Respondent was
- 24 employed at the Corcoran State Prison Hospital Pharmacy located at 4001 King Avenue in
- 25 Corcoran, California. While working at the pharmacy, Respondent became the subject of an
- 26 investigation for allegedly diverting drugs from the pharmacy as well as taking filled prescriptions
- 27 for inmates.
- 28 b. On July 11, 2002, a Department of Corrections investigator and three

1 correctional officers, a Paso Robles police officer, and a Board of Pharmacy investigator went to
2 Respondent's residence on Angus Road in Paso Robles, California, with a search warrant for
3 Respondent's vehicle and home. During the search of Respondent's garage, the investigators
4 found needles and syringes in storage containers; numerous pharmacy copies of the triplicate
5 prescriptions completed by prescribers; a computer central processing unit, and thousands of
6 individual prescriptions. In addition, the investigators recovered large quantities of various types
7 of drugs and medications, including but not limited to, controlled substances and dangerous drugs.
8 The drugs and confidential patient information should have been stored on a Board of Pharmacy
9 licensed premises and not in the garage of Respondent's home.

10 **CAUSE FOR DISCIPLINE**

11 (Unlawful Possession of Controlled Substances)

12 50. Respondent has subjected his license to discipline pursuant to section
13 4301(j) and (o) of the Code for unprofessional conduct, and section 4060 of the Code, in that on
14 or about July 11, 2002, Respondent was unlawfully in possession of the following controlled
15 substances for which he did not have a valid prescription:

- 16 a. Dichlorophenazone
- 17 b. Acetaminophen" with codeine
- 18 c. Phentermine

19 **CAUSE FOR DISCIPLINE**

20 (Self-Prescribing Controlled Substances)

21 51. Respondent has subjected his license to discipline pursuant to section
22 4301(f), (j) and (o) of the Code for unprofessional conduct, and Health & Safety Code section
23 11170, in that on or about July 11, 2002, Respondent was unlawfully in possession of the
24 following controlled substances which he prescribed to himself:

- 25 a. Dichlorophenazone
- 26 b. Acetaminophen" with codeine
- 27 c. Phentermine

1 **CAUSE FOR DISCIPLINE**

2 (Obtained Controlled Substances by Fraud, Deceit, Subterfuge)

3 52. Respondent has subjected his license to discipline pursuant to section
4 4301(f), (j) and (o) of the Code for unprofessional conduct, and Health & Safety Code section
5 11173(a), in that Respondent obtained controlled substances (Phentermine, Acetaminophen" with
6 codeine, and Midrin generic (Dichlorophenazone)) by fraud, deceit, or subterfuge by diverting the
7 drugs from his former pharmacy (Old Towne Drug) and/or the Corcoran State Prison Pharmacy.

8 **CAUSE FOR DISCIPLINE**

9 (Unlawful Possession of Dangerous Drugs)

10 53. Respondent has subjected his license to discipline pursuant to section
11 4301(j) and (o) of the Code for unprofessional conduct, and section 4059 of the Code, in that on
12 or about July 11, 2002, Respondent was unlawfully in possession of the following dangerous
13 drugs which he furnished to himself without a valid prescription from a prescriber:

- 14 a. Carbamazepine
15 b. Carisoprodol
16 c. Carvedilol
17 d. Chlorpromazine
18 e. Clarithromycin
19 f. Clindamycin
20 g. Enalapril
21 h. Erythromycin
22 i. Hydrocortisone
23 j. Ibuprofen
24 k. Lithium Carbonate
25 l. Naproxen
26 m. Omeprazole
27 n. Primidone
28 o. Prochlorperazine

- 1 p. Tetracycline
- 2 q. Theophylline
- 3 r. Ephedrine Sulfate Powder

4 **CAUSE FOR DISCIPLINE**

5 (Unauthorized Disclosure of Prescriptions)

6 54. Respondent has subjected his license to discipline pursuant to section
7 4301(o) of the Code for unprofessional conduct, in conjunction with Title 16, California Code of
8 Regulations, section 1764, in that on or about July 11, 2002, Respondent possessed patient
9 prescriptions and computer hardware and software containing confidential medical information of
10 patients, which was stored in the garage at his residence on Angus Avenue in Paso Robles,
11 California. This information should have been stored on a Board of Pharmacy licensed premises.

12 **CAUSE FOR DISCIPLINE**

13 (Unlawful Possession of Hypodermic Needles and Syringes)

14 55. Respondent has subjected his license to discipline pursuant to section
15 4301(j) and (o) of the Code for unprofessional conduct, and section 4140 of the Code, in that on
16 or about July 11, 2002, Respondent possessed four boxes of hypodermic needles and syringes
17 which were stored in the garage at his residence on Angus Avenue in Paso Robles, California.

18 **CAUSE FOR DISCIPLINE**

19 (Failure to Notify Employer of Probation)

20 56. Respondent has subjected his license to discipline pursuant to section
21 4301(o) of the Code for unprofessional conduct, in conjunction with Title 16, California Code of
22 Regulations, section 1773(a)(5), and section 4300(d) of the Code, in that Respondent failed to
23 notify his employer, Corcoran State Prison Hospital Pharmacy, of the terms and conditions of his
24 probation prior to starting work. Respondent showed his employer the terms and conditions of his
25 probation approximately 4 months later after being confronted by his supervisor.

26 **FIRST SUPPLEMENTAL PETITION TO REVOKE PROBATION**

27 57. The allegations of Paragraph Nos.14 to 56, above, are realleged and
28 incorporated herein by reference as if set forth in full.

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

In the Matter of the First Supplemental Accusation and Petition to Revoke Probation Against:
Olde Towne Drug and Layne R. Kilpatrick
OAH No. L-2002080457
Agency Case No. 2378

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On October 22, 2002, I served the attached **First Supplemental Accusation and Petition to Revoke Probation, Supplemental Statement to Respondent, Request for Discovery and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **First Supplemental Accusation and Petition to Revoke Probation, Supplemental Statement to Respondent, Request for Discovery and Discovery Statutes** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 So. Spring St., Los Angeles, CA 90013, addressed as follows:

Olde Towne Drug
835 12th Street
Paso Robles, CA 93446
7001 0360 0003 2715 4742

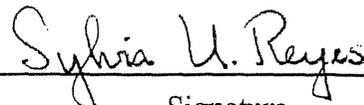
Layne R. Kilpatrick
1535 Lyle Lane
Paso Robles, CA 93446
7001 0360 0003 2715 4766

Gregory C. Jacobson, Esq.
974 Walnut Street
San Luis Obispo, CA 93401
7001 0360 0003 2715 4759

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on October 22, 2002, at Los Angeles, California.

Sylvia Reyes

Typed Name



Signature

**U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)**

OFFICIAL USE

7001 0360 0003 2715 4742

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|---|----|------------------|
| Postage | \$ | Postmark Here |
| Certified Fee | | |
| Return Receipt Fee (Endorsement Required) | | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total Postage & Fees | \$ | |

Sent To

 Street, Apt. No.;
 or PO Box No. **Olde Towne Drug**
 835 12th Street
 City, State, ZIP+ 4 **Paso Robles, CA 93446**

PS Form 3800, January 2001 See Reverse for Instructions

**U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)**

OFFICIAL USE

7001 0360 0003 2715 4759

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| Return Receipt Fee (Endorsement Required) | | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total Postage & Fees | \$ | |

Sent To

 Street, Apt. No.;
 or PO Box No. **Gregory C. Jacobson, Esq.**
 974 Walnut Street
 City, State, ZIP+ 4 **San Luis Obispo, CA 93401**

PS Form 3800, January 2001 See Reverse for Instructions

**U.S. Postal Service
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| Return Receipt Fee (Endorsement Required) | | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total Postage & Fees | \$ | |

Sent To

 Street, Apt. No.;
 or PO Box No. **Layne R. Kilpatrick**
 1535 Lyle Lane
 City, State, ZIP+ 4 **Paso Robles, CA 93446**

PS Form 3800, January 2001 See Reverse for Instructions