

1 BILL LOCKYER, Attorney General  
of the State of California  
2 RONALD L. DIEDRICH, State Bar No. 95146  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 324-5333  
Facsimile: (916) 327-8643  
6 E-mail: ron.diedrich@doj.ca.gov

7 Attorneys for Complainant

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

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

14 **BRENT MICHAEL TINCHER**

14 408 Illsey Way  
15 Folsom, California 95630

16 Pharmacist License No. RPH51921

Respondent.

Case No. 2592

O.A.H. No. N2003010310

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

17  
18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
20 proceeding that the following matters are true:

21 PARTIES

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

26 2. Brent Michael Tincher ("Respondent") is represented in this proceeding by  
27 attorney Jeffrey S. Kravitz, whose address is 1007 7th Street, Suite 600, Sacramento, California  
28 95814.







ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Jeffrey S. Kravitz. I understand the stipulation and the effect it will have on my pharmacist license. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 2-25-03 Brent Tincher

BRENT MICHAEL TINCHER,  
Respondent

I have read and fully discussed with Respondent Brent Michael Tincher the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 2-25-03 Jeffrey S. Kravitz

JEFFREY S. KRAVITZ,  
Attorney for Respondent

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: March 10, 2003 Bill Lockyer

BILL LOCKYER, Attorney General  
of the State of California

Ronald L. Diedrich

RONALD L. DIEDRICH  
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 Against:

**BRENT MICHAEL TINCHER**

408 Illsey Way  
Folsom, California 95630

Pharmacist License No. RPH51921

Respondent.

Case No. 2592

OAH No. N2003010310

**DECISION AND ORDER**

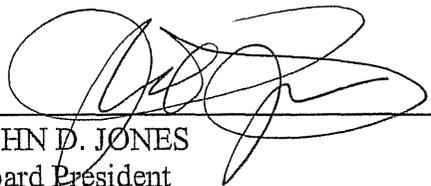
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 10, 2003.

It is so ORDERED April 10, 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 No. 2592**

**STIPULATED SURRENDER OF  
LICENSE & ORDER, CASE NO. 2592**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 RONALD L. DIEDRICH, State Bar No. 95146  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 324-5333  
Facsimile: (916) 327-8643  
6 E-mail: ron.diedrich@doj.ca.gov

7 Attorneys for Complainant

8

9

10

11

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

12

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

Case No. 2592

13

**BRENT MICHAEL TINCHER**

14

408 Illsey Way  
Folsom, CA 95630

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

15

Pharmacist License No. RPH 51921

16

Respondent.

17

18

19

Complainant alleges:

20

**PARTIES**

21

1. Patricia F. Harris ("Complainant") brings this Accusation and Petition to

22

Revoke Probation solely in her official capacity as the Executive Officer of the Board of

23

Pharmacy ("Board"), Department of Consumer Affairs, State of California.

24

2. Pursuant to the Stipulation, Decision and Order ("Stipulation") in the case

25

of *In the Matter of the Statement of Issues Against: Brent Michael Tinchler*, Case No. SI 2282, on

26

or about September 8, 2000, the Board issued Pharmacist License No. RPH 51921 to Brent

27

Michael Tinchler ("Respondent"). Respondent's license was then immediately revoked. The

28

revocation was then stayed and a three (3) year probation imposed, subject to certain specified



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

whether the act is a felony or misdemeanor or not.

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

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

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

(Possession of a Controlled Substance)

8. Code section 4060 provides in pertinent part that:

No person shall possess any controlled substance, except that furnished upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. . . .

9. Health & Safety Code section 11350, subdivision (a), provides:

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

(Self-Administration or Furnishing of a Controlled Substance)

10. Health and Safety Code section 11170 states that "[N]o person shall prescribe, administer, or furnish a controlled substance for himself."

///

///

(Selling, Dispensing or Compounding While Under the Influence)

11. Code section 4327 states that "[A]ny person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

(Controlled Substances & Dangerous Drugs)

12. "Norco" (hydrocodone/APAP) is a Schedule III controlled substance, narcotic drug, as listed at Health and Safety Code section 11056, subdivision (e)(4), and a dangerous drug, as defined by Code section 4022.

13. "Halcion" (triazolam) is a Schedule IV controlled substance, as listed at Health and Safety Code section 11057, subdivision (d)(25), and a dangerous drug, as defined by Code section 4022.

14. "Soma" (carisoprodol) is a dangerous drug, as defined by Code section 4022.

(Cost Recovery)

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

**ACCUSATION**

**FIRST CAUSE FOR DISCIPLINE**

(Corrupt Acts)

16. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

17. From on or about February 24, 2002, thru on or about October 2, 2002, on multiple occasions, all the exact dates of which are unknown, Respondent unlawfully, dishonestly and/or fraudulently appropriated substantial quantities of Norco, Halcion and/or Soma from his employer, while employed as a licensed pharmacist for Kaiser Permanente at the

1 Sacramento Arden Way Pharmacy.

2 SECOND CAUSE FOR DISCIPLINE

3 (Corrupt Acts)

4 18. Respondent is also subject to disciplinary action under Code section 4301,  
5 subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud,  
6 deceit, or corruption.

7 19. From on or about February 24, 2002, thru on or about October 2, 2002, on  
8 multiple occasions, the exact dates of which are unknown, Respondent engaged in conduct which  
9 was intended to, and did in fact, cause the biological fluid testing he was required to undergo to  
10 give a false negative reading for controlled substances and/or dangerous drugs.

11 THIRD CAUSE FOR DISCIPLINE

12 (Threat to Public Safety)

13 20. Respondent is also subject to disciplinary action under Code section 4301,  
14 subdivision (h), in that Respondent administered to himself a controlled substance, or used a  
15 dangerous drug to the extent or in a manner as to be dangerous or injurious to himself, to a  
16 person holding a pharmacist license, or to any other person or to the public, and/or to the extent  
17 that the use impaired his ability to safely conduct the practice of pharmacy.

18 21. From on or about February 24, 2002, thru on or about October 2, 2002, on  
19 multiple occasions, the exact dates of which are unknown, Respondent administered to himself  
20 Norco, Halcion and/or Soma. Respondent was under the influence of those controlled substances  
21 and/or dangerous drugs while on duty as a licensed pharmacist for Kaiser Permanente at the  
22 Sacramento Arden Way Pharmacy, so as to impair his ability to safely practice pharmacy.

23 FOURTH CAUSE FOR DISCIPLINE

24 (Violations of the Law Regulating Controlled Substances - Possession)

25 22. Respondent is also subject to disciplinary action under Code section 4301,  
26 subdivision (j), in that Respondent violated Code section 4060 and/or Health and Safety Code  
27 section 11350, subdivision (a), which are statutes regulating controlled substances.

28 ///



1 incorporated herein by reference, Respondent violated Code section 4060, Code section 4310,  
2 subdivisions (f), (h), (j) and (o), Code section 4327, Health and Safety Code section 11170 and/or  
3 Health and Safety Code section 11350, subdivision (a).

4 SECOND CAUSE TO REVOKE PROBATION

5 (Cooperation With Board Staff)

6 30. At all times after the effective date of Respondent's probation, Condition 4  
7 on page 4 of the Stipulation required that:

8 Respondent shall cooperate with the Board's inspectional program  
9 and in the Board's monitoring and investigation of the  
10 respondent's compliance with the terms and conditions of his  
11 probation. Failure to cooperate shall be considered a violation of  
12 probation.

13 31. Respondent's probation is also subject to revocation because he failed to  
14 comply with probation Condition 4. From on or about February 24, 2002, thru on or about  
15 October 2, 2002, on multiple occasions, the exact dates of which are unknown, Respondent failed  
16 to cooperate as required in that he engaged in conduct which was intended to, and did in fact,  
17 cause the biological fluid testing he was required to undergo pursuant to probation Condition 15  
18 to give a false negative reading for controlled substances and/or dangerous drugs.

19 THIRD CAUSE TO REVOKE PROBATION

20 (Pharmacist Recovery Program)

21 32. At all times after the effective date of Respondent's probation, Condition  
22 14 on page 7 of the Stipulation required, in pertinent part, that:

23 Within thirty (30) days of the effective date of this decision,  
24 respondent shall contact the Pharmacist Recovery Program (PRP)  
25 for evaluation and shall successfully participate in and complete  
26 the treatment contract and any subsequent addendums as  
27 recommended and provided by the PRP and approved by the  
28 Board. . . . (Emphasis added.)

33. Respondent's probation is also subject to revocation because he failed to  
26 comply with probation Condition 14. Respondent failed to successfully participate in and  
27 complete his treatment contract. On or about October 23, 2002, Respondent was removed from  
28 the Pharmacist Recovery Program ("PRP") prior to his successful completion because of his non-

1 compliant behaviors, which included his failure to timely enter the treatment program required by  
2 PRP, his continuing use of drugs, his theft of drugs and/or his falsifying urine-analysis results.

3 FOURTH CAUSE TO REVOKE PROBATION

4 (Abstain From Drug Use)

5 34. At all times after the effective date of Respondent's probation, Condition  
6 16 on pages 7 and 8 of the Stipulation required that:

7 Respondent shall abstain completely from the personal use or  
8 possession of controlled substances and dangerous drugs. This  
9 order does not apply in instances where medications are lawfully  
10 prescribed to the respondent for a legitimate illness or condition by  
11 a physician, dentist, or podiatrist, and where respondent, upon  
12 request of the Board or its designee, provides documentation from  
13 the treating physician, dentist, or podiatrist that the prescription  
14 was legitimately issued and is a necessary part of the treatment of  
15 the respondent. (Emphasis added.)

12 35. Respondent's probation is also subject to revocation because he failed to  
13 comply with probation Condition 16. From on or about February 24, 2002, thru on or about  
14 October 2, 2002, on multiple occasions, the exact dates of which are unknown, Respondent used  
15 and/or was in possession of Norco, Halcion and/or Soma, without a valid prescription for those  
16 controlled substances and/or dangerous drugs.

17 FIFTH CAUSE TO REVOKE PROBATION

18 (Abstain From Alcohol Use)

19 36. At all times after the effective date of Respondent's probation, Condition  
20 17 on page 8 of the Stipulation required that "Respondent shall abstain completely from the use  
21 of alcoholic beverages."

22 37. Respondent's probation is also subject to revocation because he failed to  
23 comply with probation Condition 17. On or about November 3 and 4, 2002, and/or on other  
24 multiple occasions after September 8, 2000, the exact dates of which are unknown, Respondent  
25 failed to abstain completely from the use of alcoholic beverages.

26 ///

27 ///

28 ///

