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8 Attorneys for Complainant

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

11 In the Matter of the Petition to Revoke Probation  
12 Against:

13 WARREN JAY KINGDON  
10885 El Domino  
14 Fountain Valley, CA 92708

15 Original Pharmacist License No. RPH 28125

16 Respondent.

Case No. 2642

OAH No. L-2003120316

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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19 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
20 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,  
21 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will  
22 be submitted to the Board for approval and adoption as the final disposition of the Petition to  
23 Revoke Probation

24 PARTIES

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





1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist's License No. RPH 28125 issued to  
3 Respondent WARREN JAY KINGDON is revoked. However, the revocation is stayed and  
4 Respondent is placed on probation for five (5) years on the following terms and conditions.

5 1. **Actual Suspension - Pharmacist.** As part of probation, Respondent is  
6 suspended from the practice of pharmacy for 30 days beginning the effect date of this decision.

7 During suspension, Respondent shall not enter any pharmacy area or any  
8 portion of the licensed premises of a wholesaler, medical device retailer or any other  
9 distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous  
10 drugs, controlled substances or legend drugs are maintained. Respondent shall not practice  
11 pharmacy nor do any act involving drug selection, selection of stock, manufacturing,  
12 compounding, dispensing or patient consultation; nor shall Respondent manage, administer,  
13 or be a consultant to any licensee of the Board, or have access to or control the ordering,  
14 manufacturing or dispensing of dangerous drugs or controlled substances of dangerous drugs  
15 or controlled substances. Respondent shall not direct or control any aspect of the practice of  
16 pharmacy. Subject to the above restrictions, Respondent may continue to own or hold an  
17 interest in any pharmacy in which he holds an interest at the time this decision becomes  
18 effective.

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

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

- 23 • an arrest or issuance of a criminal complaint for violation of any provision of  
24 the Pharmacy Law, state and federal food and drug laws, or state and federal  
25 controlled substances laws  
26 • a plea of guilty or nolo contendere in any state or federal criminal proceeding  
27 to any criminal complaint, information or indictment  
28 • a conviction of any crime

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

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

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

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

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

7. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in Petition to Revoke Probation Case No. 2642 and the terms, conditions and restrictions imposed on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer has read the decision in Case No. 2642.

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1 If Respondent works for or is employed by or through a pharmacy employment  
2 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at  
3 every pharmacy of the and terms conditions of the decision in Case No. 2642 in advance of the  
4 Respondent commencing work at each pharmacy.

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

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

13 **9. Reimbursement of Board Costs.** Respondent shall pay to the Board  
14 its costs of investigation and prosecution in the amount of \$1,234.00 within 60 days of the  
15 effective date of the decision. If Respondent fails to pay the costs as specified by the Board  
16 and on or before the dates determined by the Board, the Board shall, without affording the  
17 Respondent notice and the opportunity to be heard, revoke probation and carry out the  
18 disciplinary order that was stayed. The filing of bankruptcy by Respondent shall not relieve  
19 Respondent of his responsibility to reimburse the Board its costs of investigation and  
20 prosecution.

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

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

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

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

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

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

21 14. **Tolling of Probation.** Respondent shall work at least 40 hours in each  
22 calendar month as a pharmacist and at least an average of 80 hours per month in any six  
23 consecutive months. Failure to do so will be a violation of probation. If Respondent has not  
24 complied with this condition during the probationary term, and Respondent has presented  
25 sufficient documentation of his good faith efforts to comply with this condition, and if no  
26 other conditions have been violated, the Board, in its discretion, may grant an extension of  
27 Respondent's probation period up to one year without further hearing in order to comply with  
28 this condition.

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

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

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

14                   17.     **Rehabilitation Program - Pharmacists Recovery Program (PRP).**  
15 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists  
16 Recovery Program for evaluation and shall successfully participate in and complete the  
17 treatment contract and any subsequent addendums as recommended and provided by the PRP  
18 and as approved by the Board. If Respondent fails to comply with the terms of the  
19 Pharmacists Recovery Program, then Respondent will be automatically suspended from the  
20 practice of pharmacy. The costs for PRP participation shall be borne by the Respondent.

21                   If Respondent is currently enrolled in the PRP, said participation is now  
22 mandatory and is no longer considered a self-referral under Business and Professions Code  
23 section 4363, as of the effective date of this decision. Respondent shall successfully  
24 participate in and complete his current contract and any subsequent addendums with the PRP.  
25 Probation shall be automatically extended until Respondent successfully completes his  
26 treatment contract. Any person terminated from the program shall be automatically suspended

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1 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified  
2 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate  
3 probation for any violation of this term.

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

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

20           20.     **Supervised Practice.** Respondent shall practice only under the  
21 supervision of a pharmacist not on probation with the Board. Respondent shall not practice  
22 until the supervisor is approved by the Board. The supervision shall be, as required by the  
23 Board, either:

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

25                   Substantial - At least 50% of a work week

26                   Partial - At least 25% of a work week

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

1                   Within 30 days of the effective date of this decision, Respondent shall have his  
2 supervisor submit notification to the Board in writing stating the supervisor has read the  
3 decision in Case No. 2642 and is familiar with the level of supervision as determined by the  
4 Board.

5                   If Respondent changes employment, Respondent shall have his new supervisor,  
6 within 15 days after employment commences, submit notification to the Board in writing  
7 stating the direct supervisor and pharmacist-in-charge have read the decision in Case No. 2642  
8 and is familiar with the level of supervision as determined by the Board.

9                   Within 10, days of leaving employment, Respondent shall notify the Board in  
10 writing.

11                   21.     **No Supervision.** Respondent shall not supervise any ancillary  
12 personnel, including, but not limited to, registered pharmacy technicians or exemptees, of any  
13 entity licensed by the Board. Respondent cannot work as a Pharmacist-in-Charge.

14                   22.     **Consultant for Owner or Pharmacist-in-Charge.** Respondent shall  
15 not supervise any intern pharmacist, perform the duties of a preceptor or serve as a consultant  
16 to any entity licensed by the Board. In the event that the Respondent is currently the  
17 pharmacist-in-charge of a pharmacy, the pharmacy shall retain an independent consultant at its  
18 own expense who shall be responsible for reviewing pharmacy operations on a  
19 [monthly/quarterly] basis for compliance by Respondent with state and federal laws and  
20 regulations governing the practice of pharmacy and for compliance by Respondent with the  
21 obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and  
22 not on probation with the Board and whose name shall be submitted to the Board for its prior  
23 approval within 30 days of the effective date of this decision. Respondent shall not be a  
24 pharmacist-in-charge at more than one pharmacy or at any pharmacy of which he is not the  
25 current PIC. The Board may, in case of an employment change by Respondent or for other  
26 reasons as deemed appropriate by the Board, preclude the Respondent from acting as a  
27 pharmacist-in-charge.

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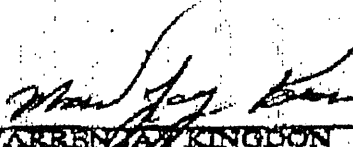
23. Tolling of Suspension. If Respondent leaves California to reside or practice outside this state, for any period exceeding 10 days (including vacation), Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state - or any absence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

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

**ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Donald B. Brown. I understand the stipulation and the effect it will have on my Pharmacist's License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: NOV 19 2004

  
WARREN JAY KINGDON  
Respondent

I have read and fully discussed with Respondent WARREN JAY KINGDON the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content

DATED: NOV 18 2004

  
DONALD B. BROWN  
Attorney for Respondent

ENDORSEMENT

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

DATED: 12-6-04

BILL LOCKYER, Attorney General  
of the State of California

  
KAREN L. GORDON  
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Petition to Revoke  
Probation Against:

WARREN JAY KINGDON  
10885 El Domino  
Fountain Valley, CA 92708

Pharmacist License No. RPH 28125

Respondent.

Case No. 2642

OAH No. L-2003120316

**DECISION AND ORDER**

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

This Decision shall become effective on February 10, 2005.

It is so ORDERED January 11, 2005.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
\_\_\_\_\_  
STANLEY W. GOLDENBERG  
Board President

**Exhibit A**

**Petition to Revoke Probation No. 2642 2002 24787**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 SUSAN A. RUFF, State Bar No. 115869  
Deputy Attorney General  
3 California Department of Justice  
110 West "A" Street, Suite 1100  
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5 P.O. Box 85266  
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Facsimile: (619) 645-2061

7 Attorneys for Complainant  
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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
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**STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation  
12 Against:

13 WARREN JAY KINGDON  
10885 El Domino  
14 Fountain Valley, CA 92708

15 Pharmacist License No. RPH 28125

16 Respondent.

Case No. 2642

**PETITION TO REVOKE  
PROBATION**

17  
18 Complainant alleges:

19 PARTIES

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

23 2. On or about March 22, 1973, the Board of Pharmacy issued Pharmacist License  
24 Number RPH 28125 to Warren Jay Kingdon ("respondent"). Effective April 28, 2002, in  
25 Accusation Case No. AC 2362, respondent's license was revoked, but the revocation was stayed  
26 and the license was placed on probation for five years, with a 60-day actual suspension. The  
27 license is on probation at the present time and will expire on September 30, 2004, unless  
28 renewed.







1 pharmacy. However; the revocation was stayed and the license was placed on three years  
2 probation on various terms and conditions. Probation was completed in 1995 and the license was  
3 fully restored. That decision is now final and is incorporated by reference as if fully set forth.

4 PRAYER

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

- 7 1. Revoking probation, reinstating the order of revocation that was stayed and  
8 revoking License Number RPH 28125, issued to respondent;
- 9 2. Revoking, suspending or taking other disciplinary action against License Number  
10 RPH 28125, issued to respondent;
- 11 3. Ordering respondent to pay the Board the reasonable costs of the investigation and  
12 enforcement of this case, pursuant to Code section 125.3;
- 13 4. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: 11/6/03

16  
17 P. F. Harris  
18 PATRICIA F. HARRIS  
19 Executive Officer  
20 Board of Pharmacy  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

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