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5 Attorneys for Complainant
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7
8 BEFORE THE
BOARD OF PHARMACY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:)

12 JERRY E. DANNENBERG)
6 El Prado Court)
13 Santa Rosa, CA 95405)
Pharmacist License)
14 No. RPH 47672)

NO. 2243

OAH NO. N2001050136

15 and)

16 KAISER FOUNDATION HEALTH)
PHARMACY 1 WEST PHARMACY 581)
17 401 Bicentennial Way)
Santa Rosa, CA 95401)
18 Pharmacy Permit No. PHY 22113)

STIPULATED SETTLEMENT
AGREEMENT WITH RESPECT
TO RESPONDENT JERRY E.
DANNENBERG ONLY

19 and)

20 ROBERT GRAY MACKIE)
2010 Stony Oak Court)
21 Santa Rosa, CA 95403)
Pharmacist License)
22 No. RPH 25078)

23 and)
24)
25)
26)
27)

1 KAISER FOUNDATION HEALTH PLAN)
1 EAST PHARMACY 583)
2 401 Bicentennial Way)
Santa Rosa, CA 95403)
3 Pharmacy Permit No. PHY 37604)

4 and)

5 CLAYTON EUGENE WHEELER III)
326 Lorraine Court)
6 Sebastopol, CA 95472)
Pharmacist License)
7 No. RPH 28905)

8 and)

9 KAISER FOUNDATION HEALTH PLAN)
2 WEST PHARMACY 582)
10 401 Bicentennial Way)
Santa Rosa, CA 95403)
11 Pharmacy Permit No. PHY 34285)

12 and)

13 LAWRENCE J. WEISSENBURGER, JR.)
6101 Evelyn Avenue)
14 Rohnert Park, CA 94928)
Pharmacist License)
15 No. RPH 30374)

16 Respondents.)
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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 PARTIES

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

26 2. Respondent JERRY E. DANNENBERG ("Respondent") is represented in
27 this proceeding by attorney Kenneth L. Freeman, whose address is 711 Van Ness Avenue, Suite

1 240, San Francisco, California 94102.

2 3. On or about September 12, 1994, the Board of Pharmacy issued
3 Pharmacist License Number RPH 47672 to Respondent. The Pharmacist License was in full
4 force and effect at all times relevant to the charges brought.

5 4. Accusation No. 2243, was filed before the Board of Pharmacy of the
6 Department of Consumer Affairs, ("Board"), and is currently pending against Respondent. The
7 Accusation, together with all other statutorily required documents, was duly served on
8 Respondent on March 16, 2001, and Respondent timely filed his Notice of Defense contesting
9 the Accusation. A copy of Accusation No. 2243 is attached as Exhibit A and incorporated herein
10 by reference.

11 5. Respondent has carefully read and discussed with his counsel the nature of
12 the charges and allegations in the Accusation and the effects of this Stipulated Settlement and
13 Disciplinary Order.

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

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

23 8. Respondent understands that the charges and allegations in the
24 Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
25 License.

26 9. For the purpose of resolving Accusation No. 2243 without the expense and
27 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could

1 establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up
2 his right to contest those charges.

3 10. Respondent agrees that his Pharmacist License is subject to discipline and
4 he agrees to be bound by the Board's imposition of discipline as set forth in the Order below.

5 RESERVATION

6 11. The admissions made by Respondent herein are only for the purposes of
7 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional
8 licensing agency is involved, and shall not be admissible in any other criminal or civil
9 proceeding.

10 CONTINGENCY

11 12. This stipulation shall be subject to the approval of the Board. Respondent
12 understands and agrees that Board of Pharmacy's staff and counsel for Complainant may
13 communicate directly with the Board regarding this stipulation and settlement, without notice to
14 or participation by Respondent or his counsel. If the Board fails to adopt this stipulation as its
15 Order, except for this paragraph the Stipulated Settlement and Disciplinary Order shall be of no
16 force or effect, it shall be inadmissible in any legal action between the parties, and the Board
17 shall not be disqualified from further action by having considered this matter.

18 13. The parties agree that facsimile copies of this Stipulated Settlement and
19 Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as
20 the original Stipulated Settlement and Disciplinary Order and signatures.

21 14. In consideration of the foregoing admissions and stipulations, the parties
22 agree that the Board shall, without further notice or formal proceeding, issue and enter the
23 following Disciplinary Order:

24 DISCIPLINARY ORDER

25 **IT IS HEREBY ORDERED** that Pharmacist License Number RPH 47672 issued
26 to Respondent JERRY E. DANNENBERG is revoked. However, the revocation is stayed and
27 Respondent is placed on probation for two (2) years on the following terms and conditions. The

1 two year probation will commence retroactively with a starting date of March 1, 2001.

2 1. **RANDOM FLUID TESTING**

3 Respondent shall immediately submit, with or without prior notice, to biological fluid
4 testing, at respondent's expense, upon the request of the Board or its designee. The length and
5 frequency of this testing requirement will be determined by the Board.

6 2. **ABSTAIN FROM DRUG USE**

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

13 3. **ABSTAIN FROM ALCOHOL USE**

14 Respondent shall abstain completely from the use of alcoholic beverages.

15 4. **OBEY ALL LAWS**

16 Respondent shall obey all federal and state laws and regulations substantially related or
17 governing the practice of pharmacy

18 5. **REPORTING TO THE BOARD**

19 Respondent shall report to the Board or its designee quarterly. The report shall be made
20 either in person or in writing, as directed. If the final probation report is not made as directed,
21 probation shall be extended automatically until such time as the final report is made.

22 6. **INTERVIEW WITH THE BOARD**

23 Upon receipt of reasonable notice, respondent shall appear in person for interviews with
24 the Board or its designee upon request at various intervals at a location to be determined by the
25 Board or its designee. Failure to appear for a scheduled interview without prior notification to
26 Board staff shall be considered a violation of probation.

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1 7. **COOPERATION WITH BOARD STAFF**

2 Respondent shall cooperate with the Board's inspectional program and in the Board's
3 monitoring and investigation of the respondent's compliance with the terms and conditions of his
4 probation. Failure to cooperate shall be considered a violation of probation.

5 8. **PEER REVIEW**

6 Respondent shall submit to peer review as deemed necessary by the Board.

7 9. **CONTINUING EDUCATION**

8 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
9 pharmacist as directed by the Board.

10 10. **NOTICE TO EMPLOYERS**

11 Respondent shall notify all present and prospective employers of the decision in case
12 number 2176 and the terms, conditions and restrictions imposed on respondent by the decision.
13 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
14 respondent undertaking new employment, respondent shall cause his employer to report to the
15 Board in writing acknowledging the employer has read the decision in case number 2243.

16 If respondent works for or is employed by or through a pharmacy employment service,
17 respondent must notify the pharmacist-in-charge and/or the owner at every pharmacy at which he
18 is to be employed or used of the fact and terms of the decision in case number 2243 in advance of
19 the respondent commencing work at the pharmacy.

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

23 11. **NO PRECEPTORSHIPS, SUPERVISION OF INTERNS, BEING**
24 **PHARMACIST-IN-CHARGE**

25 Respondent shall not supervise any intern pharmacist or perform any of the duties of a
26 preceptor, nor shall respondent be the pharmacist-in-charge of any pharmacy licensed by the
27 Board.

1 12. **REIMBURSEMENT FOR INVESTIGATIVE COSTS**

2 Respondent shall pay to the Board its costs of investigation and prosecution in the
3 amount of \$3,000.00.

4 Respondent shall make said payment within the first year of the effective date of
5 the order.

6 If respondent fails to pay the costs as specified by the Board and on or before the date(s)
7 determined by the Board, the Board shall, without affording the respondent notice and the
8 opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed.

9 13. **PROBATION MONITORING COSTS**

10 Respondent shall pay the costs associated with probation monitoring as determined by the
11 Board each and every year of probation. Such costs shall be payable to the Board at the end of
12 each year of probation. Failure to pay such costs shall be considered a violation of probation.

13 14. **STATUS OF LICENSE**

14 Respondent shall, at all times while on probation, maintain an active, current license with
15 the Board, including any period during which suspension or probation is tolled.

16 If respondent's license expires by operation of law or otherwise, upon renewal or
17 reapplication respondent's license shall be subject to any and all terms of this probation not
18 previously satisfied.

19 15. **NOTIFICATION OF EMPLOYMENT/MAILING ADDRESS**

20 Within ten (10) days of a change in employment - either leaving or commencing
21 employment - respondent shall so notify the Board in writing, including the address of the new
22 employer; within ten (10) days of a change of mailing address, respondent shall notify the Board
23 in writing. If respondent works for or is employed through a pharmacy employment service,
24 respondent shall, as requested, provide to the Board or its designee with a work schedule
25 indicating dates and location of employment.

26 16. **TOLLING OF PROBATION**

27 If respondent leaves California to reside or practice outside this state, respondent must

1 notify the Board in writing of the dates of departure and return within ten (10) days of departure
2 or return. Periods of residency, except such periods where the respondent is actively practicing
3 pharmacy within California, or practice outside California shall not apply to the reduction of the
4 probationary period.

5 Should respondent, regardless of residency, for any reason cease practicing pharmacy in
6 California, respondent must notify the Board in writing within the (10) days of cessation of the
7 practice of pharmacy or resuming the practice of pharmacy. "Cessation of practice" means any
8 period of time exceeding thirty (30) days in which respondent is not engaged in the practice of
9 pharmacy as defined in section 4052 of the Business and Profession Code.

10 It is a violation of probation for respondent's probation to remain tolled pursuant to the
11 provisions of this condition for a period exceeding a consecutive period of three (3) years.

12 17. **VIOLATION OF PROBATION**

13 If respondent violates probation in any respect, the Board, after giving respondent notice
14 and an opportunity to be heard, may revoke probation and carry out the disciplinary order which
15 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
16 probation, the Board shall have continuing jurisdiction, and the period of probation shall be
17 extended, until the petition to revoke probation or accusation is heard and decided.

18 If a respondent has not complied with any term or condition of probation, the Board shall
19 have continuing jurisdiction over respondent, and probation shall automatically be extended until
20 all terms and conditions have been met or the Board has taken other action as deemed
21 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
22 to impose the penalty which was stayed.

23 18. **COMPLETION OF PROBATION**

24 Upon successful completion of probation, respondent's license will be fully restored.
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed the terms and conditions and other matters contained therein with my attorney Kenneth L. Freeman, I understand the effect this stipulation will have on my Pharmacist License. I enter into this Stipulated Settlement voluntarily, knowingly and intelligently and agree to be bound by the Disciplinary Order and Decision of the Board of Pharmacy. I further agree that a facsimile copy of this Stipulated Settlement and Disciplinary Order, including facsimile copies of signatures, may be used with the same force and effect as the originals.

DATED: 7/27/01



JERRY E. DANNENBERG
Respondent

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

DATED: July 19, 2001



KENNETH L. FREEMAN, Esq.
Attorney for Respondent

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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: 8/8/01

BILL LOCKYER, Attorney General
of the State of California



W. LLOYD PARIS
Deputy Attorney General
Attorneys for Complainant

DOJ Docket Number: 03583110-SF1999AD0950
Stipulation 11/9/00

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

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

Case No. 2243

JERRY E. DANNENBERG
Pharmacist License No. RPH 47672

**STIPULATED SETTLEMENT
AGREEMENT WITH
RESPECT TO JERRY E.
DANNENBERG ONLY**

**KAISER FOUNDATION HEALTH
PHARMACY 1 EAST PHARMACY 581**
Pharmacy Permit No. PHY 221133

ROBERT GRAY MACKIE
Pharmacist License No. RPH 25078

**KAISER FOUNDATION HEALTH PLAN
1 EAST PHARMACY 583**
Pharmacy Permit No. PHY 37604

CLAYTON EUGENE WHEELER III
Pharmacist License No. RPH 28905

**KAISER FOUNDATION HEALTH PLAN
2 WEST PHARMACY 582**
Pharmacy Permit No. PHY 34825

LAWRENCE J. WEISSENBURGER, JR.
Pharmacist License No. RPH 30374

Respondent.

DECISION AND ORDER

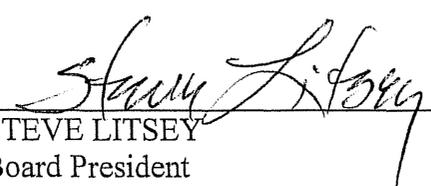
The attached Stipulated Settlement is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on February 2, 2002.

IT IS SO ORDERED January 3, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STEVE LITSEY
Board President

1 BILL LOCKYER, Attorney General
of the State of California
2 W. LLOYD PARIS
Deputy Attorney General, State Bar No. 124755
3 Department of Justice
455 Golden Gate Ave., Suite 1100
4 San Francisco, California 94102
Telephone: (415) 703-5553
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6 Attorneys for Complainant

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

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In the Matter of the Accusation)
Against:)
JERRY E. DANNENBERG) NO. 2243
6 El Prado Court)
Santa Rosa, CA 95405)
Pharmacist License) ACCUSATION
No. RPH 47672)
and)
KAISER FOUNDATION HEALTH)
PHARMACY 1 WEST PHARMACY 581)
401 Bicentennial Way)
Santa Rosa, CA 95401)
Pharmacy Permit No. PHY 22113)
and)
ROBERT GRAY MACKIE)
2010 Stony Oak Court)
Santa Rosa, CA 95403)
Pharmacist License)
No. RPH 25078)
and)
)
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1 KAISER FOUNDATION HEALTH PLAN)
 1 EAST PHARMACY 583)
 2 401 Bicentennial Way)
 Santa Rosa, CA 95403)
 3 Pharmacy Permit No. PHY 37604)
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 4 and)
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 5 CLAYTON EUGENE WHEELER III)
 326 Lorraine Court)
 6 Sebastopol, CA 95472)
 Pharmacist License)
 7 No. RPH 28905)
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 9 KAISER FOUNDATION HEALTH PLAN)
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 10 401 Bicentennial Way)
 Santa Rosa, CA 95403)
 11 Pharmacy Permit No. PHY 34285)
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 13 LAWRENCE J. WEISSENBURGER, JR.)
 6101 Evelyn Avenue)
 14 Rohnert Park, CA 94928)
 Pharmacist License)
 15 No. RPH 30374)
)
 16 Respondents.)
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 19 Complainant Patricia F. Harris, as causes for
 20 disciplinary action, alleges:

21 1. Complainant is the Executive Officer of the
 22 California Board of Pharmacy ("Board") and makes and files this
 23 accusation solely in her official capacity.

24 LICENSE INFORMATION

25 2. On or about September 12, 1994, Pharmacist License
 26 No. RPH 47672 was issued by the Board to Jerry E. Dannenberg
 27 ("Dannenberg"), and at all times relevant herein, said Pharmacist

1 License was, and currently is, in full force and effect.

2 3. On or about November 17, 1981 Pharmacy Permit No.
3 PHY 22113 was issued by the Board to Kaiser Foundation to do
4 business as Kaiser Foundation Health Pharmacy 1, West Pharmacy
5 581 ("Kaiser 1 West"). From October 1, 1992 through October 8,
6 1998 respondent Robert Mackie was the pharmacist-in-charge of
7 Kaiser 1 West. From October 8, 1998 respondent Lawrence John
8 Weissenburger was and still is the pharmacist-in-charge of Kaiser
9 1 West. At all time relevant herein, said Pharmacy Permit was,
10 and currently is, in full force and effect.

11 4. On or about August 2, 1967, Pharmacist License No.
12 RPH 25078 was issued by the Board to Robert Gray Mackie
13 ("Mackie"), and at all times relevant herein, said Pharmacist
14 License was, and currently is, in full force and effect.

15 5. On or about November 25, 1991 Pharmacy Permit No.
16 PHY 37604 was issued by the Board to Kaiser Foundation to do
17 business as Kaiser Foundation Health Plan 1, East Pharmacy 583
18 ("Kaiser 1 East"). From November 25, 1991 through September 28,
19 1998 respondent Clayton Wheeler was the pharmacist-in-charge of
20 Kaiser 1 East. From October 8, 1998 through March 1, 1999
21 respondent Robert Mackie was the pharmacist-in-charge of Kaiser 1
22 East. At all times relevant herein, said pharmacy permit was,
23 and currently is, in full force and effect.

24 6. On or about July 17, 1974, Pharmacist License No.
25 RPH 28905 was issued by the Board to Clayton Eugene Wheeler
26 ("Wheeler"), and at all times relevant herein, said Pharmacist
27 License was, and currently is, in full force and effect.

1 conduct with safety to the public the practice authorized by
2 the license.

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

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

12 11. Under Business and Professions Code section
13 118(b), the expiration or forfeiture of a license shall not,
14 during any period in which it may be reissued or reinstated,
15 deprive the Board of the authority to institute disciplinary
16 action.

17 12. Code section 125.3 provides for recovery by the
18 Board of certain costs of investigation and enforcement in
19 disciplinary actions where a licentiate is found to have
20 committed a violation or violations of the licensing act. A
21 certified copy of the actual costs signed by the designated
22 representative of the Board, shall constitute prima facie
23 evidence of reasonable costs of investigation and prosecution of
24 the case up to the date of the hearing.

25 13. Drugs

26 "Vicodin", "Vicodin ES", "Lorcet" and "Lortab" are
27 brands of hydrocodone with acetaminophen; are Schedule III

1 controlled substances as defined in Health and Safety Code
2 section 11056(e)(4); and are dangerous drugs as defined by Code
3 section 4022; and are narcotic analgesics.

4 "Meprobamate", is a Schedule IV controlled substance as
5 defined in Health and Safety Code section 11057(d)(15) and a
6 dangerous drug as defined by Code section 4022; and is used as an
7 anti-anxiety agent.

8 "Xanax", is a brand of alprazolam, is a Schedule IV
9 controlled substance as defined in Health and Safety Code section
10 11057(d)(1) and a dangerous drug as defined by Code section 4022;
11 and is an anti-anxiety agent.

12 I.

13 **CHARGES AGAINST RESPONDENT DANNENBERG**

14 14. Code section 4059 provides that no person shall
15 furnish any dangerous drug, except upon the prescription of a
16 physician, dentist, podiatrist, or veterinarian.

17 15. Code section 4327 provides that a pharmacist,
18 while on duty, shall not dispense or compound any drug while
19 under the influence of any dangerous drug.

20 16. Health and Safety Code section 11170 provides that
21 no person shall prescribe, administer, or furnish a controlled
22 substance for himself.

23 17. Health and Safety Code section 11173(a) provides,
24 in pertinent part, that no person shall obtain or attempt to
25 obtain controlled substances by fraud, deceit, misrepresentation
26 or by concealment of material fact.

27 18. Respondent Dannenberg is subject to disciplinary

1 action pursuant to Code section 4301, subparagraph (h), in that
2 he self administered controlled substances.

3 The circumstances are that beginning in January, 1996
4 respondent Dannenberg was employed as a staff pharmacist at
5 respondent Kaiser pharmacies. By his own admission respondent
6 Dannenberg diverted 2-4 tablets a day of hydrocodone between
7 October, 1996 and April, 1997, and 8-12 tablets a day of
8 hydrocodone between May, 1997 and July 18, 1997 from the
9 respondent Kaiser pharmacies without a prescription.
10 Additionally, during the same time period, respondent Dannenberg
11 admitted to diverted 12 doses of Xanax and 10 doses of
12 Meprobamate from the respondent Kaiser pharmacies without a
13 prescription.

14 19. Respondent Dannenberg is subject to disciplinary
15 action pursuant to Code section 4301, subparagraphs (j) and (o)
16 for having violated Code section 4059 and/or Health and Safety
17 Code sections 11170 in that he furnished controlled substances to
18 himself without a prescription by virtue of the allegations in
19 paragraph 18 above.

20 20. Respondent Dannenberg is subject to disciplinary
21 action pursuant to Code section 4301, subparagraph (f), in that
22 he committed acts involving moral turpitude, dishonesty, fraud,
23 deceit, or corruption by taking the controlled substances from
24 the respondent Kaiser pharmacies as described in paragraph 18
25 above.

26 21. Respondent Dannenberg is subject to disciplinary
27 action pursuant to Code section 4301, subparagraphs (j) and (o)

1 evidence of guilt.

2 25. Title 16, California Code of Regulations, section
3 1718 defines "current inventory" to include complete
4 accountability of all dangerous drugs handled by every licensee.

5 26. Respondents Kaiser 1 West, Kaiser 1 East, Kaiser 2
6 West, Mackie, Wheeler and Weissenburger are subject to
7 disciplinary action pursuant to Code section 4301, subparagraphs
8 (j) and/or (o), for violating Code section 4081, as interpreted
9 by Title 16, California Code of Regulations, section 1718, for
10 failing to keep a complete, accurate and current inventory of
11 controlled substances. The circumstances are as follows:

12 A. As a result of respondent Dannenberg's
13 admission to diverting hydrocodone, Board inspectors requested
14 respondents Kaiser 1 West, Kaiser 1 East, and Kaiser 2 West to
15 perform an audit of hydrocodone for the period in which
16 respondent Dannenberg admitted to diverting controlled
17 substances. The results of the audits are as follows:

18 KAISER PHARMACY 1 WEST

19 Starting Inventory Date: 10/26/96

20 Ending Inventory Date: 11/3/97

21 Hydrocodone/APAP 5/500: Over 14,942 tablets (+2.9%)

22 Vicodin: Over 908 tablets (+17.83%)

23 Lortab 7.5/5000: Short 2,555 tablets (-24.75%)

24 KAISER PHARMACY 2 WEST

25 Starting Inventory Date: 10/23/96

26 Ending Inventory Date: 11/4/97

27 Hydrocodone/APAP 5/5000: Short 18,640 tablets (-14.5%)

1 Vicodin: Short 724 tablets (-67.66%)
2 Lortab 7.5/500: Short 1,392 tablets (-60.78%)

3
4 KAISER PHARMACY 1 EAST

5 Starting Inventory Date: 4/17/96
6 Ending Inventory Date: 11/3/97
7 Hydrocodone/APAP 5/5000: Short 1610 tablets
8 Vicodin: Over 90 tablets
9 Lortab 7.5/500: Short 1,778 tablets

10 B. Given the results of the 1996-1997 audits, Board
11 inspectors also asked for more recent audit results to be
12 provided by respondents Kaiser 1 West, Kaiser 2 West, and Kaiser
13 1 East. The results of the subsequent audits are as follows:

14 KAISER 1 WEST

15 Starting Inventory Date: 11/3/97
16 Ending Inventory Date: 11/6/98
17 Hydrocodone/APAP 5/5000: Short 7,824 tablets (-1.31%)
18 Vicodin: Short 2,664 tablets (-29.1%)
19 Lortab 7.5/500: Short 2,191 (-18.96).

20
21 KAISER 2 WEST

22 Starting Inventory Date: 11/4/97
23 Ending Inventory Date: 4/2/98
24 Hydrocodone/APAP 5/5000: Short 669 tablets (-1.45%)
25 Vicodin: Over 60 tablets (+7.5%)
26 Lortab 7.5/500: Over 101 tablets (+19.05%)

27

1 KAISER 1 EAST

2 Starting Inventory Date: 11/3/97

3 Ending Inventory Date: 10/20/98

4 Hydrocodone/APAP 5/5000: Short 418 tablets (-0.31%)

5 Vicodin: Over 56 tablets (+3.68%)

6 Lortab 7.5/500: Over 186 tablets (+12.73%)

7 C. Respondents Kaiser 1 West, Kaiser 2 West, Kaiser 1
8 East, Mackie, Wheeler and Weissenburger failed to completely and
9 accurately account for the above-listed controlled substances
10 during the audit periods listed above.

11 FAILURE TO MAINTAIN SEPARATE RECORDS

12 27. Respondents Kaiser 1 West, Kaiser 2 West, Mackie
13 and Weissenburger are subject to disciplinary action pursuant to
14 Code section 4301, (j) and/or (o), for violating Code section
15 4081 for failing to all records of acquisition and disposition
16 available to inspection. The circumstances are that, throughout
17 the audit periods set forth in paragraph 26 above, these two
18 pharmacies failed to maintain separate records of acquisition and
19 disposition. The result being that the inventories of the two
20 pharmacies were co-mingled.

21 FAILURE TO REPORT LOSSES

22 28. Title 16, California Code of Regulations, section
23 1715.6 provides that any losses of controlled substances shall be
24 reported to the Board within 30 days.

25 29. Title 21, Federal Code of Regulations, section
26 1301.76 provides that any losses of controlled substances shall
27 be reported to the DEA.

- 1 RPH 25078, heretofore issued to respondent Robert
2 Gray Mackie;
- 3 4. Revoking or suspending Pharmacy Permit Number PHY
4 37604, heretofore issued to Kaiser Foundation, to
5 do business as Kaiser Foundation Health Plan
6 1, East Pharmacy 583;
- 7 5. Revoking or suspending Pharmacist License Number
8 RPH 28905, heretofore issued to respondent Clayton
9 Eugene Wheeler;
- 10 6. Revoking or suspending Pharmacy Permit Number PHY
11 34285, heretofore issued to Kaiser Foundation, to
12 do business as Kaiser Foundation Health
13 Pharmacy 2, West Pharmacy 582;
- 14 7. Revoking or suspending Pharmacist License Number
15 RPH 30374, heretofore issued to respondent
16 Lawrence J. Weissenburger, Jr.;
- 17 8. Imposing cost recovery for investigative and
18 prosecution costs as provided by Business and
19 Professions Code section 125.3 as to each and
20 every respondent;
- 21 9. Imposing the restrictions provided by Business and
22 Professions Code section 4307; and
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10. Taking such other and further action as the Board
deems proper.

DATED: 3/14/01

P. J. Harris

Patricia F. Harris
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California

Complainant

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