



California State Board of Pharmacy

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STATE AND CONSUMER SERVICES AGENCY

DEPARTMENT OF CONSUMER AFFAIRS

GOVERNOR EDMUND G. BROWN JR.

BOARD DISCUSSION AND POSSIBLE ACTION ON PROPOSED REGULATION

- a. **Regulation Hearing to Amend the Board’s Disciplinary Guidelines at Title 16 California Code of Regulations Section 1760, Including to Incorporate Recommendations of the Substance Abuse Coordination Committee (Pursuant to SB 1441, Ridley-Thomas, Chapter 548, Statutes of 2008)**

Attachment 1

Relevant Sections

California Code of Regulations Section 1760 requires the board to consider disciplinary guidelines when reaching a decision on a disciplinary action.

Business and Professions Code Section 315 established the Substance Abuse Coordination Committee (SACC) within the Department of Consumer Affairs. The committee was charged with formulating uniform and specific standards in several areas for dealing with substance-abusing licensees.

Chapter 9, Division 2, Chapter 19 (business and professions code sections 4300-4315) defines disciplinary proceeding for the board as well as the grounds for taking such discipline.

Background

Last year the board directed staff to a restructuring and updating of its Disciplinary Guidelines last year. Subsequent to this, in April 2011, the SACC finalized the uniform standards required in B&PC section 315. Many of these standards need to be incorporated into the guidelines as well to facilitate implementation.

During the July 2011 Board meeting, staff was directed to incorporate the uniform standards into the disciplinary guidelines for consideration by the board at a future meeting. Most Recently, during the September 2011 Board Meeting, the board voted to initiate a rulemaking to amend Section 1760 and the Disciplinary Guidelines that are incorporated by reference in this section.

Recent Update

On October 14, the board released the rulemaking, initiating the 45-day comment period on the proposed changes. In addition to releasing this for a 45-day comment period, the board, as part of its notice, scheduled a regulation hearing during this meeting. The regulation hearing is another opportunity to individuals to submit comments to the board for consideration. Comments submitted during the hearing can be discussed after the hearing is concluded.

Attachment 1 contains the notice and proposed amends to Section 1760 and the Disciplinary Guidelines as noticed.

b. Review and Discussion of Comments for Notice Rulemaking

Attachment 2

At the conclusion of the regulation hearing, the board will have the opportunity to discuss all of the comments provided during the hearing as well as during the 45-day comment period. The comments received during the 45-day comment period are provided in **Attachment 2**.

- c. Board Discussion and Possible Action to Amend 16 California Code of Regulations Section 1760, Including to Incorporate Recommendations of the Substance Abuse Coordination Committee (Pursuant to SB 1441, Ridley-Thomas, Chapter 548, Statutes of 2008)

TITLE 16. Board of Pharmacy

NOTICE IS HEREBY GIVEN that the Board of Pharmacy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Pharmacy at its office not later than 5:00 p.m. on November 28, 2011.

Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at: Embassy Suites San Francisco Airport –Waterfront, 150 Anza Blvd. Burlingame, CA 94010 at 1:30 p.m. on January 31, 2012.

The Board of Pharmacy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 4005 of the Business and Professions Code and section 11420.20 of the Government Code and to implement, interpret, and make specific sections 315, 315.2, 315.4, 4300 and 4301 of the Business and Professions Code, and sections 11420.20 and 11425.50(e) of the Government Code, the Board of Pharmacy is considering changes to Division 17 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California State Board of Pharmacy (Board) protects consumers by licensing and regulating all aspects of the practice of pharmacy in California, including the pharmacist, the pharmacy, and prescription drugs and devices. The Board also regulates drug wholesalers, veterinary food-animal drug retailers (VFADR), designated representatives (manager responsible for ensuring compliance of wholesaler or VFADR), and other practitioners such as pharmacist interns and technicians. The Board licenses thousands of individuals and firms, and administers and enforces 12 regulatory programs. The Board fulfills its public protection mandate by imposing discipline on licensees who violate the Pharmacy Law.

Business and Professions Code section 4005 generally authorizes the board to adopt and amend rules and regulations pertaining to the practice of pharmacy.

Business and Professions Code section 4300 authorizes the board to discipline a licensee as well as refuse to issue a license to an applicant.

Business and Professions Code section 4301 authorizes the board to take action against a licensee for unprofessional conduct as defined.

Business and Professions Code section 315 established the Substance Abuse Coordination Committee (SACC) within the Department of Consumer Affairs (Department) and required the SACC to formulate uniform and specific standards for use by healing arts boards in dealing with substance abusing licensees.

Business and Professions Code Section 315.2, specifies that a healing arts board within the Department is required to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program.

Business and Professions Code Section 315.4, authorizes healing arts boards within the Department to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under Section 315.

Government Code section 11420.20 authorizes the board to adopt regulations to govern an adjudicative proceeding.

Government Code section 11425.50(e) prohibits a penalty from being based upon a guideline unless the guideline has been adopted as a regulation.

Title 16, California Code of Regulations Section 1760 currently incorporates by reference the Board's Disciplinary Guidelines. Board staff, Deputy Attorneys General, Administrative Law Judges, licensees, and attorneys use these guidelines to assist in determining penalties in the disciplinary case against board licensees. The Board is proposing to amend Section 1760 of Division 17 of Title 16 of the California Code of Regulations. The purpose for amending the regulation is to update the Disciplinary Guidelines that are incorporated by reference in section 1760, and revised in September 2011. The board is proposing to update the "Disciplinary Guidelines" to conform with changes to the Pharmacy Law (Business and Professions Code sections 4000 et seq.), to clarify some existing terms and conditions of probation that appear ambiguous, establish new terms and conditions necessary to ensure rehabilitation of licensees and remove terms no longer utilized or necessary in the interest of public protection.

Further, in April 2011, the SACC finalized a document named *Uniform Standards Regarding Substance-Abusing Healing Arts Licensees*, which contained the sixteen uniform standards as required by Section 315. The Board is proposing to use the SACC's standards, where applicable, throughout its guidelines as a way to facilitate implementation of the uniform standards.

Provided below is information on the general changes proposed for the Board's Disciplinary Guidelines.

1. Proposed changes resulting from reorganization of the Guidelines:

- Consolidation of all the lists of standard terms and conditions of probation into one list for all individual license types (Pharmacist, Intern Pharmacist, Pharmacy Technician and Designated Representative).
- Removal of all legal citations under each separate category of violations. These can be made available via an attachment for those who want such a reference.
- Revised definitions for the various categories of violations and inclusion of sample violations within each category of violation.

2. Proposed changes to Disciplinary Orders and Terms of Probation for Individual Licensees:

New Model Disciplinary Order Language for a:

- License Reinstatement Order with Conditions Prior to Issuing License
- General License Reinstatement

Changes to Model Language for the following types of Disciplinary Orders:

- Revocation
- Suspension
- Issuance of Probationary License
- Surrender

New term of probation

- Suspension

Changes to the following existing terms of probation:

- Cooperate with Board Staff: This term would be revised to clarify what activities require cooperation within the term as well as specify that such cooperation must occur timely.
- Restrictions on Supervision and Oversight of Licensed Facilities: This term would be renamed to better reflect the requirements of the term and to specify that it is appropriate only for pharmacist and designated representative licensees. Further this term would provide for the consolidation of other existing terms - - No Supervision of Ancillary Personnel and Consultant for Owner or Pharmacist-in-Charge. This term would also be changed to facilitate consolidation of the individual license types.
- Reimbursement of Board Costs: This term would be renumbered. Also, a new option would be created that would allow a respondent to submit payments to the board pursuant to an approved plan, and would specify that payment in full must be completed at least one year prior to the end of probation. Further, the proposed change would remove the language stating that the filing of bankruptcy does not relieve the respondent of the requirement to pay the board.
- Certification Prior to Resuming Work (Pharmacy Technician Only): For purposes of consolidation, this term would be moved to a new consolidated section. Further, the term would reflect that it is appropriate only for pharmacy technician licensees.
- Notification of Departure: For purposes of consolidation, this term would be moved to apply to all individual licensees, not just pharmacy technicians and designated representatives as currently authorized.
- License Practice Requirements – Tolling: This term would be renamed to better reflect the provisions contained therein. Proposed changes are necessary to facilitate consolidation of the individual license types. Additionally, the optional language would be changed to allow the board greater flexibility in meeting the

employment needs of a respondent while balancing the board's probation monitoring needs to ensure that necessary rehabilitation occurs. A new option would also be created specific for intern pharmacists to reflect the experiential requirements of pharmacy education.

- **Restricted Practice:** This term would be renumbered for purposes of consolidation and language would be added to authorize a designee to perform board functions. In addition, this term would be revised to include a requirement for submission of written proof of compliance. It would also add an option to include requirements for "satisfactory proof" of compliance to the Board that may include written acknowledgment of compliance with the restriction on practice from a licensee's direct supervisor, pharmacist in charge, and owner or owner representative.
- **Pharmacist Exam (Pharmacists Only):** This term would be renumbered and a notation that this term shall be used only for pharmacists would be provided with this change. The phrase "he or she" would be replaced with [he/she] to allow the drafter to select the gender of the respondent. The suspension language contained within this term would also be modified to clarify the prohibited functions during any such suspension. Further, if the respondent is required to complete 16 semester units of remedial education, the board would clarify with this change that proof of completion of such coursework must be provided.
- **Psychotherapy:** This term would be renumbered and updated to clarify the conditions when inclusion of this term is appropriate. The suspension language would be modified to clarify those activities that are prohibited during any such suspension.
- **Medical Evaluation:** This term would be renumbered and modified to facilitate consolidation of each of the individual license types. The suspension language would be modified to clarify those activities that are prohibited during any such suspension. The same types of changes are being made to the two options provided in this term.
- **Pharmacists Recovery Program (Pharmacists and Pharmacist Interns Only):** The term would be updated to clarify the conditions when inclusion of this term is appropriate. This term would also be modified to clarify what actions a respondent must take to comply with the term as well as the timeline for completion. The term would also clarify that the respondent must comply with the treatment contracts established by the PRP and that failure to comply will result in the automatic suspension of practice by the respondent. The suspension language would be modified to clarify those activities that are prohibited during any such suspension. The option language would be modified to clarify the intent of the option, which is to allow the PRP the ability to monitor a respondent under specified conditions prior to the respondent successfully completing the PRP.
- **Abstain from Drugs and Alcohol:** This term would be renumbered and portions rewritten to clarify exceptions to the prohibition.
- **Prescription Coordination and Monitoring of Prescription Use:** This term would be updated to clarify the conditions when inclusion of this term is appropriate. This term would also be modified to allow for consolidation of each of the individual license types and to clarify that the board may identify a designee to

perform board functions. The suspension language would also be changed to clarify those activities that are prohibited during any such suspension.

- Community Service Program: This term is being renumbered and modified to facilitate consolidation of each of the individual license types. In addition, the term would specify that proof of completion must be provided and clarifies that the board may allow a designee to perform board functions.
- Supervised Practice: This term would be renumbered and a notation would be added to indicate this term only applies to pharmacists, pharmacist interns and designated representatives. This term would be recast to better describe the requirements of the term and to provide better guidance to the respondent on the board's expectations. This term would define what constitutes a violation of probation and the suspension language would be changed to clarify those activities that are prohibited during any such suspension.
- Surrender of DEA Permit (Pharmacists and Pharmacist Interns Only): This term would be renumbered and a notation would be added to clarify that this term should only be used for pharmacists and pharmacist interns. This term would be modified to replace the phrase "his or her" with [his/her] to allow for the respondent's gender to be accurately reflected in the decision. In addition, this term would clarify what acts are prohibited under this term and the two optional terms are being numbered.
- Ethics Course: This term would be renumbered and a notation would be made to clarify that this term should only be used for pharmacists and pharmacist interns. In addition, this term would be modified to accurately reflect the course requirements as detailed in Title 16, California Code of Regulations Section 1773.5 and specify that proof of enrollment and completion must be provided to the board. The term would also specify that failure to provide such proof will be considered a violation of probation.

Proposed changes to the terms and conditions of probation of the Guidelines to use the Uniform Standards for Substance Abusing Licensees as set forth by the SACC in its April 2011 document:

- Amend "Notice to Employers" and rename as "Reporting of Employment and Notice to Employers" term
- Add "Clinical Diagnostic Evaluation" and delete "Mental Health Examination" term
- Amend "Random Drug Screening" and rename as "Drug and Alcohol Testing" term
- Add "Facilitated Group Recovery and/or Support Meetings" term
- Add "Work Site Monitor" term
- Add "Attend Substance Abuse Recovery Relapse Prevention and Support Groups" term

3. Proposed changes to Premises Licensees:

Changes to the Model Disciplinary Orders Language for the following types of discipline:

- Revocation
- Suspension
- Issuance of a Probationary License
- Surrender

- Public Reprimand

Add new terms of probation

- Definition: Respondent
- Sale or Discontinuance of Business: This term would specify that the board, in its sole discretion, will determine if it retains jurisdiction over a licensed location that has either changed location or ownership (full or partial) irrespective if a new license number is issued. If the board makes such a determination, the jurisdiction would be carried over to the new location or license number and the terms and conditions of probation would carry over for the remainder of the probation period. The substance of this proposed change is currently contained in a different term (License Surrender While on Probation).
- Premises Open for Business: This term would require a business to remain open for a specified period of time. The language allows flexibility to the board in determining the minimum number of hours per calendar month the business must be open and sets forth the reporting requirements for this term.
- Suspension: This term would be added as separate, optional term of probation.

Proposed changes to existing terms of probation

- Cooperate with Board Staff: This term would be renumbered and modified to clarify what activities are required in cooperation with the board.
- Reimbursement of Board Costs: This term would be renumbered and would be modified to remove the word “owner” as a definition of respondent is being added in a separate term to provide clarity. Also, a new option would be created that will allow a respondent to submit payments to the board pursuant to an approved plan, and would specify that payment in full must be completed at least one year prior to the end of probation.
- Status of License: This term would be renumbered and would be modified to remove the word “owner” as a definition of respondent is being added in a separate term to provide clarity. Further a provision that currently specifies that the board would retain jurisdiction would be removed.
- Posted Notice of Probation: This term would be renumbered and would be modified to remove the word “owner” as a definition of respondent is being added in a separate term to provide clarity. In addition, this term would provide for the timeframe for compliance with the posting requirements.
- Report of Controlled Substances: This term would be modified to allow the board greater flexibility in determining the frequency of reports and the number that should be submitted. This term would also clarify that the board allows the use of a designee to complete functions on its behalf. In addition this term would be renumbered and would be modified to remove the word “owner” as a definition of respondent is being added in a separate term to provide clarity.
- Posted Notice of Suspension: This term would be renumbered and the word “owner” would be removed. In addition, the board would specify the timeframe for posting the notice to provide the respondent with clear direction on the board’s expectation for compliance with this term. This term would additionally specify that failure to comply with this requirement will be considered a violation of probation.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None.

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states as it only affects licensees that have been disciplined by the board.

Impact on Jobs/New Businesses: The board has made an initial determination that the proposed regulatory action would have no significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of business in the State of California.

Cost Impact on Representative Private Person or Business: The board is not aware of any cost impacts that a representative private person or business would necessarily incur unless that individual is licensed by the board and subject to disciplinary action. Further, an individual subject to random drug screening as a term and condition of probation could incur an additional \$78 to \$88 per urine screen, if the frequency of tests was increased to the specified requirements. The Board does not maintain data relating to the number or percentage of licensees who own a business; therefore the number or percentage of businesses that may be impacted cannot be predicted. Accordingly, the initial or ongoing costs for a small business owned by a licensee who is the subject of disciplinary action cannot be projected. Businesses operated by licensees who are in compliance with the law will not incur any fiscal impact.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The board has made an initial determination that the proposed regulatory action would not have a significant adverse economic impact directly affecting small business as it will only effect businesses licensed by the board that are subject to disciplinary action..

CONSIDERATION OF ALTERNATIVES

The Board of Pharmacy must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in

carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

Any interested person may present written statements relevant to the above determinations to the Board of Pharmacy at the above-mentioned address or may present statements orally at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Pharmacy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons may be obtained upon request from the Board of Pharmacy at 1625 N. Market Blvd. N219, Sacramento, California 95834, or from the Board of Pharmacy Web site (www.pharmacy.ca.gov).

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person, named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the web site listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Anne Sodergren
Address:	1625 N. Market Blvd. N219 Sacramento, CA 95834
Telephone No.:	(916) 574-7910
Fax No.:	(916) 574-8618
E-Mail Address:	anne.sodergren@dca.ca.gov

The backup contact person is:

Name: Carolyn Klein
Address: 1625 N. Market Blvd. N219
Sacramento, CA 95834
Telephone No.: (916) 574-7913
Fax No.: (916) 574-8618
E-Mail Address: carolyn.klein@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.pharmacy.ca.gov.

Board of Pharmacy
Specific Language to Amend Section 1760

Amend Section 1760 to Division 17 of Title 16 of the California Code of Regulations to read as follows:

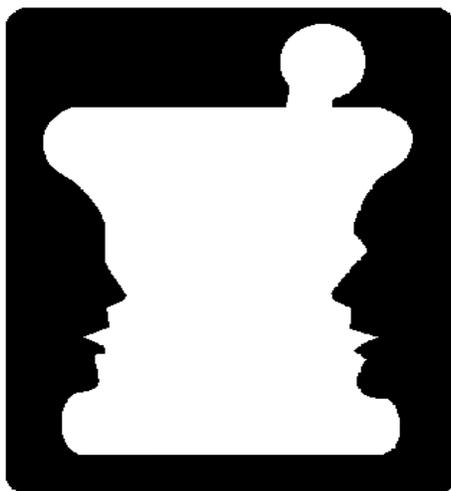
§1760. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code section 11400 et seq.) the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines" (Rev. ~~40/2007~~ 9/2011), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation--the presence of mitigating factors; the age of the case; evidentiary problems.

Authority cited: Sections 315, 315.2, 315.4, and 4005, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, 315.4, 4300 and 4301, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code

DISCIPLINARY GUIDELINES

A Manual of Disciplinary Guidelines
and Model Disciplinary Orders



***BE AWARE & TAKE CARE:
Talk to your pharmacist!***

**California State Board of Pharmacy
Department of Consumer Affairs
(Rev. ~~10/2007~~ 9/2011)**

STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

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Additional copies of these disciplinary guidelines
may be downloaded from the board's website

BOARD OF PHARMACY
DISCIPLINARY GUIDELINES

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**DEPARTMENT OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY**

**DISCIPLINARY GUIDELINES
(Rev. ~~10/2007~~ 8/2011)**

INTRODUCTION

The Board of Pharmacy (board) is responsible for the enforcement of statutes and regulations related to the practice of pharmacy (the Pharmacy Law) and to the regulation of controlled substances (the Uniform Controlled Substances Act). The board serves the public by:

- ❑ protecting the health, safety, and welfare of the people of California with integrity and honesty;
- ❑ advocating the highest quality of affordable pharmaceutical care;
- ❑ providing the best available information on pharmaceutical care; and
- ❑ promoting education, wellness and quality of life.

Pharmacists are patient advocates who provide pharmaceutical care and exercise clinical judgment ~~for the citizens of California~~ for their patients, enlightening them about their drug therapy through effective communicating and listening, assessing, collaborating, understanding and intervening. Enforcement officials act quickly, consistently and efficiently in the public's interest to ensure the safe, effective delivery of these services.

The board recognizes the importance of ensuring the safe and effective delivery of dangerous drugs and controlled substances for therapeutic purposes. At the same time, and given the historical and current abuse and diversion of drugs, particularly controlled substances, the board believes there should be no tolerance for licensees who traffic in drugs or who, in the absence of appropriate evidence of rehabilitation, personally abuse drugs or alcohol.

In accordance with Section 1760 of the California Code of Regulations, the board has produced this booklet for those involved in and affected by the disciplinary process: the general public, board licensees, attorneys from the Office of the Attorney General, administrative law judges from the Office of Administrative Hearings, defense attorneys, ~~board licensees~~, the courts, board staff and board members who review and vote on proposed decisions and stipulations.

These guidelines are to be followed in Board of Pharmacy disciplinary actions. Subject to judicial review, the board has the final authority over the disposition of its cases, and, to complete its work, it uses the services of the Office of the Attorney General and the Office of Administrative Hearings. The board recognizes that individual cases may necessitate a departure from these guidelines. In such cases, the mitigating or aggravating circumstances shall be detailed in any proposed decision or any transmittal memorandum accompanying a proposed stipulation, especially where Category III or IV violations are involved.

In general, the position of the board is that revocation should always be an option whenever grounds for discipline are found to exist. Board policy is that revocation is generally an appropriate order where a respondent is in default, such as when he or she fails to file a notice of defense or fails to appear at a disciplinary hearing.

Board policy is that a suspension, where imposed, should be at least 30 days for an individual and at least 14 days for a licensed premises.

The board seeks recovery of all investigative and prosecution costs up to the hearing in all disciplinary cases. This includes all charges of the Office of the Attorney General, including, but not limited to, those for legal services, and includes charges by expert consultants. The board believes that the burden of paying for disciplinary cases should fall on those whose conduct requires investigation and prosecution, not upon the profession as a whole.

The board recognizes there may be situations where an individual licensee deserves a stronger penalty than the pharmacy for which he or she works, but the board also believes in holding a pharmacy owner, manager, and/or pharmacist-in-charge responsible for the acts of pharmacy personnel. Similarly, the board recognizes that in some cases a licensed premises may well be more culpable than any individual licensed by or registered with the board.

For purposes of these guidelines "board" includes the board and/or its designees.

FACTORS TO BE CONSIDERED IN DETERMINING PENALTIES

Section 4300 of the Business and Professions Code provides that the board may discipline the holder of, and suspend or revoke, any certificate, license or permit issued by the board.

In determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case, factors such as the following should be considered:

1. actual or potential harm to the public
2. actual or potential harm to any consumer
3. prior disciplinary record, including level of compliance with disciplinary order(s)
4. prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s)
5. number and/or variety of current violations
6. nature and severity of the act(s), offense(s) or crime(s) under consideration
7. aggravating evidence
8. mitigating evidence
9. rehabilitation evidence
10. compliance with terms of any criminal sentence, parole, or probation
11. overall criminal record
12. if applicable, evidence of proceedings for case being set aside and dismissed pursuant to Section 1203.4 of the Penal Code
13. time passed since the act(s) or offense(s)
14. whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct
15. financial benefit to the respondent from the misconduct.

No single one or combination of the above factors is required to justify the minimum and/or maximum penalty in a given case, as opposed to an intermediate one.

MITIGATING EVIDENCE

A respondent is permitted to present mitigating circumstances at a hearing or in the settlement process and has the burden of demonstrating any rehabilitative or corrective measures he or she has taken. The board does not intend, by the following references to written statements, letters, and reports, to waive any evidentiary objections to the form or admissibility of such evidence. The respondent must produce admissible evidence in the form required by law in the absence of a stipulation to admissibility by the complainant.

The following are examples of appropriate evidence a respondent may submit to demonstrate his or her rehabilitative efforts and competency:

- a. Recent, dated, written statements and/or performance evaluations from persons in positions of authority who have on-the-job knowledge of the respondent's current competence in the practice of pharmacy including the period of time and capacity in which the person worked with the respondent. Such reports must be signed under penalty of perjury and will be subject to verification by board staff.
- b. Recent, dated, letters from counselors regarding the respondent's participation in a rehabilitation or recovery program, which should include at least a description and requirements of the program, a psychologist's diagnosis of the condition and current state of recovery, and the psychologist's basis for determining rehabilitation. Such letters and reports will be subject to verification by board staff.
- c. Recent, dated, letters describing the respondent's participation in support groups, (e.g., Alcoholics Anonymous, Narcotics Anonymous, professional support groups, etc.). Such letters and reports will be subject to verification by board staff.
- d. Recent, dated, laboratory analyses or drug screen reports, confirming abstention from drugs and alcohol. Such analyses and reports will be subject to verification by board staff.
- e. Recent, dated, physical examination/assessment report(s) by a licensed physician, confirming the absence of any physical impairment that would prohibit the respondent from practicing safely. Such ~~assessments and~~ report(s) will be subject to verification by board staff.
- f. Recent, dated, letters from probation or parole officers regarding the respondent's participation in and/or compliance with terms and conditions of probation or parole, which should include at least a description of the terms and conditions, and the officer's basis for determining compliance. Such letters and reports will be subject to verification by board staff.
- g. Recent, dated, letters from persons familiar with respondent in either a personal or professional capacity regarding their knowledge of: the respondent's character; the respondent's rehabilitation, if any; the conduct of which the respondent is accused; or any other pertinent facts that would enable the board to better decide the case. Such letters must be signed under penalty of perjury and will be subject to verification by board staff.

TERMS OF PROBATION – PHARMACIST/INTERN PHARMACIST INDIVIDUAL LICENSEES (PHARMACIST, INTERN PHARMACIST, PHARMACY TECHNICIAN, DESIGNATED REPRESENTATIVE)

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in all probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

CATEGORIES OF VIOLATIONS AND RECOMMENDED PENALTIES

The California Pharmacy Law identifies offenses for which the board may take disciplinary action against the license. Included among grounds for discipline are violations of the Pharmacy Law itself, violations of regulations promulgated by the board, and violations of other state or federal statutes or regulations.

For those licenses issued to individuals (pharmacists, intern pharmacists, pharmacy technicians, and designated representatives), the board has identified four (4) categories of violations and their associated recommended minimum and maximum penalties. These categories of violations are arranged in ascending order from the relatively minor (Category I) to the most serious (Category IV), although any single violation in any category, or any combination of violation(s) in one or more categories, may merit revocation. For pharmacy technicians and designated representatives, the board believes an order of revocation is typically the appropriate penalty when any grounds for discipline are established, and that if revocation is not imposed that a minimum Category III level of discipline should be imposed.

~~The following are categories of possible violations used by the board to determine appropriate disciplinary penalties. These categories represent the judgment of the board as to the perceived seriousness of particular offenses.~~

~~Under each category, the board has grouped statutes and regulations where violations would typically merit the recommended range of minimum to maximum penalties for that category. These lists are representative, and are not intended to be comprehensive or exclusive. For each violation category, the board has given offense descriptions and examples where violations would typically merit the recommended range of minimum to maximum penalties for that category. These descriptions and examples are representative, and are not intended to be comprehensive or exclusive. Where a violation not included in these lists is a basis for disciplinary action, the appropriate penalty for that violation may be best derived by comparison to any analogous violation(s) that are included. Where no such analogous violation is listed, the category descriptions may be consulted.~~

These categories assume a single violation of each listed statute or regulation. For multiple violations, the appropriate penalty shall increase accordingly. Moreover, if an individual has committed violations in more than one category, the minimum and maximum penalties shall be those recommended in the highest category.

The board also has the authority, pursuant to Business and Professions Code section 4301(n), to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the board will depend on the discipline imposed by the other jurisdiction, the extent of the respondent's compliance with the terms of that discipline, the nature of the conduct for which the discipline was imposed, and other factors set forth in these guidelines.

CATEGORY I

Minimum: Revocation; Revocation stayed; one year probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category I discipline is recommended for violations which are relatively minor but are potentially harmful. These may include:

- violations which are relatively minor but are potentially harmful of recordkeeping requirements, scope of practice requirements, or inventory control requirements;
- repeated violations of a relatively minor nature: smaller or isolated failure(s) to abide by or enforce prescription or refill requirements, drug-substitution requirements, or labeling requirements;
- violation(s) of obligations to supply or update information to the board, or to other enforcement or regulatory agencies;
- failure(s) to adequately supervise staff or ensure security and sanitation of premises, dangerous drugs, or controlled substances; and
- violation(s) of packaging requirements, security control requirements, or reporting requirements.

Violations of the following codes are representative of this category:

BUSINESS AND PROFESSIONS CODE

Article 3. Scope of Practice and Exemptions

- ~~4052.1 — Skin Puncture by Pharmacist; Conditions Permitting~~
- ~~4052.5 — Pharmacist May Select Different Form of Medication with Same Active Chemical Ingredients; Exceptions~~
- ~~4052.7 — Repackage Previously Dispensed Drugs; Requirements~~
- ~~4053 — Exemptee Supervisor of Manufacturer, etc.: Requirements~~
- ~~4054 — Supply by Manufacturer, etc. of Certain Dialysis Drugs and Devices~~
- ~~4055 — Sale of Devices to Licensed Clinics, etc.~~
- ~~4056 — Purchase of Drugs at Wholesale — Hospital Containing 100 Beds or Less~~
- ~~4057 — Exceptions to Application of this Chapter~~
- ~~4058 — Display of Original License~~
- ~~4062 — Furnishing Dangerous Drugs During Emergency~~
- ~~4064 — Emergency Refill of Prescription Without Prescription Authorization~~

- ~~4065 — Injection Card System; Requirements of Administration~~
- ~~4066 — Furnishing Dangerous Drugs to Master or First Officer of Vessel~~
- ~~4068 — Dispense Dangerous Drug or Controlled Substance to Emergency Room Patient; Requirements~~

Article 4. Requirements for Prescription

- ~~4070 — Reduction of Oral or Electronic Prescription to Writing~~
- ~~4071 — Prescriber May Authorize Agent to Transmit Prescription; Schedule II Excluded~~
- ~~4072 — Oral or Electronic Transmission of Prescription — Health Care Facility~~
- ~~4073 — Substitution of Generic Drug — Requirements and Exceptions~~
- ~~4074 — Drug Risk: Informing Patient; Providing Consultation for Discharge Medications~~
- ~~4076 — Prescription Container — Requirements for Labeling~~
- ~~4077 — Dispensing Dangerous Drug in Incorrectly Labeled Container~~

Article 5. Authority of Inspectors

- ~~4082 — Names of Owners, Managers and Employees Open for Inspection~~

Article 6. General Requirements

- ~~4100 — Change of Address or Name — Notification to Board~~
- ~~4103 — Blood Pressure — Taking by Pharmacist~~

Article 7. Pharmacies

- ~~4114 — Intern Pharmacist: Activities Permitted~~
- ~~4119 — Furnish Prescription Drug to Licensed Health Care Facility — Secured~~
- ~~4119.1 — Pharmacy May Provide Services to Health Facility~~
- ~~4119.5 — Transfer or Repackaging Dangerous Drugs by Pharmacy~~
- ~~4121 — Advertisement for Prescription Drug: Requirements; Restrictions~~
- ~~4122 — Required Notice at Availability of Prescription Price Information, General Product Availability, Pharmacy Services; Providing Drug Price Information; Limitations on Price Information Requests~~
- ~~4123 — Compounding Drug for Other Pharmacy for Parenteral Therapy; Notice to Board~~
- ~~4124 — Dispensing Replacement Contact Lenses: Requirements; Patient Warnings; Registration with Medical Board; Application of Section to Nonresident Pharmacies~~

Article 9. Hypodermic Needles and Syringes

- ~~4141 — Furnishing Without License~~
- ~~4142 — Prescription Required~~
- ~~4143 — Exemption: Sale to Other Entity, Physician, etc.~~
- ~~4144 — Industrial Use Exception~~
- ~~4145 — Exception: Furnishing for Administration of Insulin, Adrenaline, or Specified Animal Uses; Conditions~~
- ~~4148 — Confiscation if Found Outside Licensed Premises~~
- ~~4149 — Sale by Distributor~~

Article 10. Pharmacy Corporations

- 4151 — Licensure Requirements
- 4152 — Corporate Name Requirements
- 4153 — Shareholder Income While Disqualified
- 4156 — Unprofessional Conduct by Corporation

Article 11. Wholesalers and Manufacturers

- 4161 — Nonresident Wholesaler: When License Required; Application
- 4162 — Issuance or Renewal of Wholesaler License; Surety Bond
- 4163 — Unauthorized Furnishing by Manufacturer or Wholesaler
- 4165 — Sale or Transfer of Dangerous Drug or Device Into State: Furnishing Records to Authorized Officer on Demand; Citation for Non-compliance
- 4166 — Shipping of Dangerous Drugs or Devices — Wholesaler or Distributor
- 4167 — Wholesaler: Bar on Obtaining Dangerous Drugs or Devices If Cannot Maintain on Licensed Premises

Article 13. Non-Profit or Free Clinics

- 4180 — Purchase of Drugs at Wholesale Only with License: Eligible Clinics
- 4181 — License Requirements; Policies and Procedures; Who May Dispense
- 4182 — Duties of Professional Director; Consulting Pharmacist Required
- 4183 — No Professional Dispensing Fee
- 4184 — Dispensing Schedule II Substance Prohibited
- 4186 — Automated Drug Delivery Systems

Article 14. Surgical Clinics

- 4190 — Purchase of Drugs at Wholesale: Permitted Uses of Drugs; Required Records and Policies; License Required
- 4191 — Compliance with Department of Health Services Requirements; Who May Dispense Drugs
- 4192 — Duties of Professional Director; Providing Information to Board
- 4193 — Clinic Not Eligible for Professional Dispensing Fee; Ban on Offering Drugs for Sale
- 4194 — Dispensing of Schedule II Substance by Clinic Prohibited; Physician May Dispense; Administration Authorized in Clinic

Article 15. Veterinary Food-Animal Drug Retailers

- 4196 — License Required: Temporary License on Transfer of Ownership; Persons Authorized in Storage Area
- 4197 — Minimum Standards: Security; Sanitation; Board Regulations; Waivers
- 4198 — Written Policies and Procedures Required: Contents; Training of Personnel; Quality Assurance; Consulting Pharmacist

Article 17. Continuing Education

- 4231 — Requirements for Renewal of Pharmacist License: Clock Hours; Exemption for New Licensee
- 4232 — Content of Course

Article 18. Poisons

4240 — Application of Act

Article 20. Prohibitions and Offenses

4341 — Advertisement of Prescription Drugs or Devices

4343 — Buildings: Prohibition Against Use of Certain Signs Unless Licensed Pharmacy Within

CALIFORNIA CODE OF REGULATIONS, TITLE 16

1704 — Change of Address

1705 — Notification of Bankruptcy, Receivership or Liquidation

1708.2 — Discontinuance of Business

1708.4 — Pharmacist Handling Radioactive Drugs

1708.5 — Pharmacy Furnishing Radioactive Drugs

1709 — Names of Owners and Pharmacist in Charge

1712 — Use of Pharmacist Identifiers

1714 — Operational Standards and Security

1715.6 — Reporting Drug Loss

1716 — Variation From Prescriptions

1717 — Pharmaceutical Practice

1717.1 — Common Electronic Files

1717.4 — Electronic Transmission of Prescriptions

1718.1 — Manufacturer's Expiration Date

1726 — Supervision of Intern Pharmacists

1728 — Requirements for Examination

1732.1 — Requirements for Accredited Providers

1732.3 — Requirements for Continuing Education Courses

1732.4 — Provider Audit Requirements

1732.5 — Renewal Requirements for Pharmacist

1744 — Drug Warnings

1746 — Emergency Contraception

1751 — Sterile Injectable Compounding Area

1751.01 — Facility and Equipment Standards for Sterile Injectable Compounding from Non-Sterile Ingredients

1751.02 — Policies and Procedures

1751.1 — Laminar Flow Biological Safety Cabinet

1751.2 — Labeling Requirements

1751.3 — Recordkeeping Requirements

1751.4 — Attire

1751.5 — Training of Staff, Patient, and Caregiver

1751.6 — Disposal of Waste Material

1751.7 — Quality Assurance and Process Evaluation

1751.9 — Reference Materials

1751.11 — Furnishing to Home Health Agencies and Licensed Hospices

1751.12 — Obligations of a Pharmacy Furnishing Portable Containers

1771 — Posting Notice of Suspension

1772 — Disciplinary Condition of Suspension

- 1780 — Minimum Standards for Wholesalers
- 1780.1 — Minimum Standards for Veterinary Food-Animal Drug Retailers
- 1781 — Exemption Certificate
- 1786 — Exemptions
- 1787 — Authorization to Distribute Hemodialysis Drugs and Devices
- 1790 — Assembling and Packaging
- 1791 — Labeling
- 1792 — Receipt for Shipment

HEALTH AND SAFETY CODE

- 11100 — Report of Certain Chemical: Chemicals Included; Exclusions; Penalties
- 11100.1 — Report of Chemicals Received from Outside State; Penalties
- 11151 — Limitation on Filling Prescriptions From Medical Students
- 11158 — Prescription Required for Schedule II, III, IV, or V Controlled Substance; Exception for Limited Dispensing, Administration
- 11159 — Chart Order Exemption for Patient in County or Licensed Hospital; Maintaining Record for Seven Years
- 11159.1 — Chart Order Exemption for Clinic Patient; Maintaining Record for Seven Years
- 11159.2 — Exception to Triplicate Prescription Requirement
- 11167 — Emergency Dispensing of Schedule II Substance: Circumstances and Requirements
- 11167.5 — Oral or Electronic Prescriptions for Scheduled II Controlled Substances for Specified Inpatients, Residents, and Home Hospice Patients; Requirements
- 11171 — Prescribing, etc. Controlled Substance Only as Authorized
- 11172 — Antedating or Postdating Prescription Prohibited
- 11175 — Prohibition on Obtaining or Possessing Nonconforming Prescription; Prohibition on Obtaining Controlled Substance by Nonconforming Prescription
- 11180 — Prohibition on Controlled Substance Obtained or Possessed by Nonconforming Prescription
- 11200 — Restrictions on Dispensing or Refilling; Refill of Schedule II Prescription Barred
- 11201 — Emergency Refill of Schedule III, IV, or V Prescription; Circumstances; Requirements
- 11205 — Maintenance and Retention of Records in Separate File
- 11206 — Required information on Prescription
- 11209 — Delivery and Receiving Requirements for Schedule II, III, and IV Substances; Violation
- 11210 — Issuing Prescription: By Whom; For What Purpose; Quantity to Be Prescribed
- 11250 — Authorized Retail Sale by Pharmacists to Physicians, etc.; Required Order Form
- 11251 — Authorized Wholesale Sale by Pharmacists
- 11252 — Preservation of Federally Required Forms
- 11253 — Duration of Retention
- 11255 — Actions Constituting Sale
- 11256 — Required Report of Order By or Sale to Out-of-State Wholesaler or Manufacturer
- 111225 to
- 111655 — Adulterated or Misbranded Drugs or Devices

CODE OF FEDERAL REGULATIONS, TITLE 21

- 1301.11 — Persons required to register.

- ~~1301.12 — Separate registrations for separate locations.~~
- ~~1301.71 — Security requirements generally.~~
- ~~1301.72 — Physical security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs; storage areas.~~
- ~~1301.73 — Physical security controls for non-practitioners; compounders for narcotic treatment programs; manufacturing and compounding areas.~~
- ~~1301.74 — Other security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs.~~
- ~~1301.75 — Physical security controls for practitioners.~~
- ~~1301.76 — Other security controls for practitioners.~~
- ~~1301.90 — Employee screening procedures.~~
- ~~1301.91 — Employee responsibility to report drug diversion.~~
- ~~1301.92 — Illicit activities by employees.~~
- ~~1302.03 — Symbol required; exceptions.~~
- ~~1302.04 — Location and size of symbol on label and labeling.~~
- ~~1302.05 — Effective dates of labeling requirements.~~
- ~~1302.06 — Sealing of controlled substances.~~
- ~~1302.07 — Labeling and packaging requirements for imported and exported substances.~~
- ~~1304.11 — Inventory requirements.~~
- ~~1304.21 — Inventories of importers and exporters~~
- ~~1304.31 — Reports from manufacturers importing narcotic raw materials.~~
- ~~1304.32 — Reports of manufacturers importing coca leaves.~~
- ~~1304.33 — Reports to ARCOS.~~
- ~~1305.03 — Distributions requiring a Form 222 or a digitally signed electronic order.~~
- ~~1305.04 — Persons entitled to order Schedule I and II controlled substances.~~
- ~~1305.05 — Power of attorney.~~
- ~~1305.06 — Persons entitled to fill orders for Schedule I and II controlled substances.~~
- ~~1305.11 — Procedure for obtaining DEA Forms 222.~~
- ~~1305.12 — Procedure for executing DEA Forms 222.~~
- ~~1305.14 — Procedure for endorsing DEA Forms 222.~~
- ~~1305.15 — Unaccepted and defective DEA Forms 222.~~
- ~~1305.16 — Lost and stolen DEA Forms 222.~~
- ~~1306.03 — Persons entitled to issue prescriptions.~~
- ~~1306.05 — Manner of issuance of prescriptions.~~
- ~~1306.14 — Labeling of substances and filling of prescriptions.~~
- ~~1306.24 — Labeling of substances and filing of prescriptions.~~
- ~~1306.25 — Transfer between pharmacies of prescription information for Schedules III, IV, and V controlled substances for refill purposes.~~
- ~~1306.26 — Dispensing without a prescription.~~
- ~~1307.11 — Distribution by dispenser to another practitioner or reverse distributor.~~
- ~~1307.12 — Distribution to supplier or manufacture.~~
- ~~1307.13 — Incidental manufacture of controlled substances.~~
- ~~1307.21 — Procedure for disposing of controlled substances.~~
- ~~1700.1 to~~
- ~~1707.15 — Child-resistant containers.~~

CATEGORY II

Minimum: Revocation; Revocation stayed, three years probation (five years probation where self-administration or diversion of controlled substances is involved). All

standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category II discipline is recommended for violations with serious potential for harm, as well as for violations involving disregard for public safety or for the laws or regulations pertaining to pharmacy and/or to dispensing or distributing of dangerous drugs or controlled substances, violations that reflect on ethics, competence, or diligence, and criminal convictions not involving alcohol, dangerous drugs, or controlled substances. Violations in this category may include:

- failure(s) to abide by prohibitions on referral rebates or discounts (kickbacks) and/or volume or percentage-based lease agreements;
- violation(s) of advertising or marketing limitations, including use of false or misleading advertising or marketing;
- repeat or serious violation(s) of recordkeeping requirements, scope of practice requirements, or inventory control requirements;
- violation(s) of controlled substance secure prescription requirements, inventory controls, or security requirements;
- failure(s) to meet compliance requirements, including pharmacist-in-charge or designated representative-in-charge designation and duties;
- violation(s) of monitoring and reporting requirements with regard to chemically, mentally, or physically impaired licensees or employees;
- repeat or serious failure(s) to adequately supervise staff or ensure security and sanitation of premises, dangerous drugs, or controlled substances;
- violation(s) of law governing dangerous drugs and controlled substances, including smaller cases of diversion or self-administration;
- unlawful possession(s) of dangerous drugs, controlled substances, hypodermic needles and syringes, or drug paraphernalia;
- smaller scale dispensing or furnishing of dangerous drug(s) or device(s) via the internet without valid prescription(s);
- purchasing, trading, selling, or transferring dangerous drug(s) or device(s) to or from unauthorized person(s);
- failure(s) to make required reports to board or other regulatory agencies, including CURES obligations and reporting to DEA;
- violation(s) of quality assurance and self-assessment obligations, failure(s) to clarify erroneous or uncertain prescription(s);
- gross immorality, incompetence, gross negligence, clearly excessive furnishing of controlled substances, moral turpitude, dishonest, or fraud;
- criminal conviction(s) not involving alcohol, dangerous drugs, or controlled substances;
- violating, or assisting in or abetting violation of, or conspiring to violate the laws and regulation governing pharmacy; and
- subverting or attempting to subvert an investigation conducted by the board.
- ~~violations with a serious potential for harm~~
- ~~violations which involve greater disregard for pharmacy law and public safety~~
- ~~violations which reflect on ethics, care exercised or competence or a criminal conviction not involving dangerous drugs or controlled substances or involving possession or use of dangerous drugs or controlled substances.~~

Violations of the following codes are representative of this category:

BUSINESS AND PROFESSIONS CODE

~~650 — Rebates or Discounts for Referral Prohibited~~

~~650.1 — Lease Prohibition — Hospitals or Prescribers~~

~~651 — Professional Advertising Requirements~~

Article 3. Scope of Practice and Exemptions

~~4051(b) — Conduct Authorized by Pharmacist~~

~~4052 — Furnishing to Prescriber; Permissible Procedures by Pharmacist in Health Care Facility or Clinic or for Other Health Care Provider~~

~~4060 — Controlled Substance — Prescription Required; Exceptions~~

~~4061 — Distribution of Drug as Sample; Written Request Required~~

~~4063 — Refill of Prescription for Dangerous Drug or Device; Prescriber Authorization~~

~~4067 — Internet; Dispensing Dangerous Drugs or Devices without Prescription~~

~~4075 — Proof of Identity Required — Oral or Electronic Prescription~~

~~4078 — False or Misleading Label on Prescription~~

Article 6. General Requirements

~~4101 — Pharmacist in Charge, Exemptee: Termination of Employment; Notification to Board~~

~~4104 — Licensed Employee, Theft or Impairment: Pharmacy Procedures~~

~~4105 — Retaining Records of Dangerous Drugs and Devices on Licensed Premises; Temporary Removal; Waivers; Access to Electronically Maintained Records~~

Article 7. Pharmacies

~~4112 — Nonresident Pharmacy: Registration; Provision of Information to Board; Maintaining Records; Patient Consultation~~

~~4113 — Pharmacist in Charge: Notification to Board; Responsibilities~~

~~4115 — Pharmacy Technician: Activities Permitted; Required Supervision; Activities Limited to Pharmacist; Registration; Requirements for Registration; Ratios~~

~~4115.5 — Pharmacy Technician Trainee; Placement; Supervisions; Requirements~~

~~4116 — Security of Dangerous Drugs and Devices in Pharmacy: Pharmacist Responsibility for Individuals on Premises; Regulations~~

~~4117 — Admission to Area Where Narcotics are Stored, etc. — Who May Enter~~

~~4120 — Nonresident Pharmacy: Registration Required~~

~~4125 — Pharmacy Quality Assurance Program Required; Records Considered Peer Review Documents~~

Article 9. Hypodermic Needle and Syringes

~~4140 — Unlawful Possession~~

~~4147 — Disposal of Needle or Syringe~~

Article 11. Wholesalers and Manufacturers

~~4160 — Wholesaler: License Required~~

~~4163 — Unauthorized Furnishing by Manufacturer or Wholesaler~~

~~4164 — Reports Required~~
~~4169(a)(1) — Prohibited Acts~~

Article 13. Non-Profit of Free Clinics

~~4185 — Inspection Permitted~~

Article 14. Surgical Clinics

~~4195 — Inspection Permitted~~

Article 19. Disciplinary Proceedings

~~4301 — Unprofessional Conduct — subsections (a)–(h), (j), and (l)–(q)~~
~~4302 — Discipline of Corporate Licensee for Conduct of Officer, Director, Shareholder~~
~~4303 — Nonresident Pharmacy: Grounds for Discipline~~
~~4304 — Out-of-state Distributor: Authority to Discipline~~
~~4305 — Disciplinary Grounds: Failure of Pharmacy, Pharmacist to Notify Board of Termination of Pharmacist in Charge; Continuing to Operate Without Pharmacist~~
~~4305.5 — Disciplinary Grounds: Failure of Other Entity Licensed by Board, of Pharmacist or Exemptee to Notify Board of Termination of Pharmacist in Charge or Exemptee; Continuing to Operate Without Pharmacist or Exemptee~~
~~4306 — Violation of Professional Corporation Act as Unprofessional Conduct~~
~~4306.5 — Misuse of Education, etc. by Pharmacist Outside Course of Practice of Pharmacy as Unprofessional Conduct~~

Article 20. Prohibitions and Offenses

~~4326 — Misdemeanor: Obtaining Needle or Syringe by Fraud, etc.; Unlawful Use of Needle or Syringe Obtained from Another~~
~~4328 — Misdemeanor: Permitting Compounding, Dispensing, or Furnishing by Non-pharmacist~~
~~4330 — Misdemeanor: Non-pharmacist Owner Failing to Place Pharmacist in Charge, Dispensing or Compounding Except by Pharmacist, Interfering with Pharmacist in Charge~~
~~4331 — Misdemeanor: Medical Device Retailer, Wholesaler, Veterinary Food-Animal Drug Retailer Failing to Place Pharmacist or Exemptee in Charge, Permitting Dispensing or Compounding Except by Pharmacist or Exemptee~~
~~4333 — Maintaining Prescriptions, Other Drug Records on Premises, Open to Inspection; Waiver; Willful Failure to Keep or Permit Inspection of Records of Prescriptions, Other Records as Misdemeanor~~
~~4340 — Unlawful Advertising by Nonresident Pharmacy Not Registered with Board~~

Article 22. Unfair Trade Practices

~~4380 — Resale of Preferentially Priced Drugs: Prohibition; Exceptions~~
~~4381 — Violation of Section 4380 as Unfair Competition; Right of Private Action to Enforce~~
~~4382 — Board May Audit Sales to Walk-in Customers~~

CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1707.1 — Duty to Maintain Medication Profiles (Patient Medication Records)
- 1707.2 — Notice to Consumers and Duty to Consult
- 1707.3 — Duty to Review Drug Therapy and Patient Medication Record Prior to Delivery
- 1709.1 — Designation of Pharmacist in Charge
- 1714.1 — Pharmacy Operations During the Temporary Absence of a Pharmacist
- 1715 — Self-Assessment of a Pharmacy by the Pharmacist in Charge
- 1715.5 — Implementation of Electronic Monitoring of Schedule II Prescriptions
- 1716.1 — Compounding Unapproved Drugs for Prescriber Office Use
- 1716.2 — Record Requirements-Compounding for Future Furnishing
- 1717.3 — Preprinted, Multiple Checkoff Prescription Blanks
- 1723.1 — Confidentiality of Examination Questions
- 1745 — Partial Filling of Schedule II Prescriptions
- 1751.10 — Furnishing to Parenteral Patient at Home
- 1761(a) — Erroneous or Uncertain Prescriptions
- 1764 — Unauthorized Disclosure of Prescriptions
- 1765 — Commissions, Gratuities, and Rebates
- 1766 — False or Misleading Advertising
- 1775.3 — Compliance with Orders of Abatement
- 1782 — Reporting Sales of Drugs Subject to Abuse
- 1783 — Manufacturer or Wholesaler Furnishing Drugs or Devices
- 1793.1 — Duties of a Pharmacist
- 1793.2 — Duties of a Pharmacy Technician
- 1793.3 — Other Non-Licensed Pharmacy Personnel
- 1793.7 — Requirements for Pharmacies Employing Pharmacy Technicians
- 1793.8 — Technicians in Hospitals with Clinical Pharmacy Programs

HEALTH AND SAFETY CODE

- 11103 — Report of Theft, Loss, or Shipping Discrepancy
- 11150 — Persons Authorized to Write or Issue a Prescription
- 11152 — Nonconforming Prescriptions Prohibited
- 11154 — Prescription, etc. Must Be for Treatment; Knowing Solicitation of Unlawful Prescription, etc.
- 11156 — Prescribing, etc. Controlled Substances to Addict Only as Authorized
- 11164 — Prescriptions for Schedule II, III, IV and V Controlled Substances: Form and Content; Record of Practitioner Dispensing Schedule II Controlled Substances
- 11166 — Time Limit for Filling Schedule II Prescription; Knowingly Filling Mutilated, Forged, or Altered Prescription Prohibited
- 11170 — Prohibition on Prescribing, etc. Controlled Substance for Self
- 11179 — Retention of Controlled Substance Prescription
- 11207 — Only Pharmacist or Intern Authorized to Fill Prescription
- 11209 — Delivery and Receiving Requirements for Schedule II, III, and IV Substances; Violation
- 11350 — Possession of Specified Controlled Substance
- 11377 — Unlawful Possession of Specified Substance
- 11165(d) — CURES Transmission
- 150204 — Surplus Medication Collection and Distribution Program

CODE OF FEDERAL REGULATIONS, TITLE 21

- 1304.03 — Persons required to keep records and file reports.
- 1304.04 — Maintenance of records and inventories.
- 1304.11 — Inventory requirements.
- 1304.21 — General requirements for continuing records.
- 1304.22 — Records for manufacturers.
- 1305.07 — Special procedure for filling certain orders.
- 1305.13 — Procedure for filling DEA Forms 222.
- 1306.04 — Purpose of issue of prescription.
- 1306.06 — Persons entitled to fill prescriptions.
- 1306.07 — Administering or dispensing of narcotic drugs.
- 1306.11 — Requirement of prescription.
- 1306.12 — Refilling prescription.
- 1306.13 — Partial filling of prescriptions.
- 1306.21 — Requirement of prescription.
- 1306.22 — Refilling of prescriptions.
- 1306.23 — Partial filling of prescriptions.

CATEGORY III

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three to five years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions and optional terms and conditions as appropriate.

Maximum: Revocation

Category III discipline is recommended for violations where potential for harm is greater, more imminent, or more serious than it is for Category II violations, as well as for violations that involve knowingly or willfully violating laws or regulations pertaining to pharmacy and/or to the dispensing or distributing of dangerous drugs or controlled substances, and most criminal convictions involving alcohol, dangerous drugs or controlled substances, and most criminal convictions involving alcohol, dangerous drugs, or controlled substances. Violations in this category may include:

- violation(s) involving creation, manipulation, perpetuation, or disregard of drug shortages;
- failure(s) to deploy or abide by electronic pedigree requirements for dangerous drugs;
- violation(s) of licensee's corresponding responsibility to ensure the proper prescribing and dispensing of controlled substances;
- dispensing or furnishing without valid prescription, dispensing or furnishing to unauthorized person(s);
- violation(s) involving fraudulent acts committed in connection with the licensee's practice;
- repeat or serious violation(s) of controlled substance secure prescription requirements, inventory controls, or security requirements;
- violation(s) of laws governing dangerous drugs and controlled substances, including repeat or serious diversion or self-administration;
- repeat or serious unlawful possession(s) of dangerous drugs, controlled substances, hypodermic needles or syringes, or drug paraphernalia;

- larger scale dispensing or furnishing of dangerous drug(s) or device(s) via the internet, without valid prescription(s);
- purchasing, trading, selling, or transferring adulterated, misbranded, or expired dangerous drug(s) or devices(s);
- removal, sale, or disposal of embargoed dangerous drug(s) or device(s);
- failing to maintain record(s) of acquisition and disposition of dangerous drug(s) or device(s);
- resale(s) of preferentially priced drugs, contract bid diversion, or other instances of improper sale(s) or resale(s);
- repeat or serious violation(s) of quality assurance and self-assessment obligations, failure(s) to ensure properly trained staff and conduct practice safely;
- repeat or serious failure(s) to perform drug utilization reviews, monitor patient medication profiles, or promote safety and efficacy of prescribed drugs;
- forgery of prescriptions, passing of forged prescriptions, or other unlawful means of acquiring dangerous drug(s) or controlled substance(s);
- repeat or serious acts violating, assisting in or abetting violation of, or conspiring to violate the laws and regulations governing pharmacy; and
- violation(s) involving providing or offering to provide controlled substance(s) to addict(s),
 - ~~most criminal convictions involving dangerous drugs or controlled substances~~
 - ~~knowing or willfully violating laws or regulations pertaining to dispensing or distributing dangerous drugs or controlled substances~~
 - ~~fraudulent acts committed in connection with the licensee's practice~~
 - ~~drug shortages~~
 - ~~violation of a licensee's corresponding responsibility.~~

Violations of the following codes are representative of this category:

BUSINESS AND PROFESSIONS CODE

Article 3. Scope of Practice and Exemptions

- 4034 — Pedigree
- 4051(a) — Conduct Limited To Pharmacist
- 4059 — Furnishing Dangerous Drugs or Devices Prohibited Without Prescription: Exceptions
- 4059.5 — Who May Order Dangerous Drugs or Devices: Exceptions

Article 5. Authority of Inspectors

- 4080 — Stock of Dangerous Drugs and Devices Kept Open for Inspection
- 4081 — Records of Dangerous Drugs and Devices Kept Open for Inspection; Maintenance of Records, Current Inventory
- 4085(a) — Unlawful to Remove, Sell, Dispose of Embargoed Dangerous Drug or Dangerous Device

Article 6. General Requirements

- 4105 — Retaining Records of Dangerous Drugs and Devices on Licensed Premises; Temporary Removal; Waivers; Access to Electronically Maintained Records

Article 7. Pharmacies

- 4110 — Licensed Required; Temporary Permit Upon Transfer of Ownership
- 4111 — Restrictions on Prescriber Ownership

Article 11. Wholesalers and Manufacturers

- 4169(a)(2) to
- 4169(a)(5) Prohibited Acts

Article 15. Veterinary Food-Animal Retailers

- 4199 — Labeling Requirements; Maintaining Prescription Records

Article 19. Disciplinary Proceedings

- 4301 — Unprofessional Conduct - subsections (i) - (k) and (o)
- 4307 — Prohibition of Association of Individual with Entity License by Board: Length of Prohibition; Individuals Covered; Imposition of Prohibition Through Administrative Act Proceeding
- 4308 — Prohibited Association: Notification of Affected Licensees Known to Board

Article 20. Prohibitions and Offenses

- 4322 — Misdemeanor or Infraction: False Representations to Secure License for Self or Others; False Representation of Licensure; Penalties
- 4323 — Misdemeanor: False Representation of Self as Physician, Agent of Physician, etc. to Obtain Drug
- 4324 — Felony or Misdemeanor: Forgery of Prescription; Possession of Drugs Obtained Through Forged Prescription
- 4325 — Misdemeanor: Manufacture, Possession, etc. of False Prescription Blank
- 4327 — Misdemeanor: Sale, Dispensing, or Compounding While Under the Influence of Drugs or Alcoholic Beverages
- 4329 — Misdemeanor: Non-pharmacist Acting as Manager, Compounding, Dispensing or Furnishing Drugs
- 4332 — Misdemeanor: Failure or Refusal to Maintain or Produce Required Drug or Device Records; Willful Production of False Records
- 4335 — Voided License: Knowing Failure to Arrange for Disposition of Stock as Misdemeanor
- 4336 — Felony: Knowing or Willful Use of Minor to Violate Specified Sections of Pharmacy Law: Exception for Pharmacist Furnishing Pursuant to a Prescription

Article 22. Unfair Trade Practices

- 4380 — Resale of Preferentially Priced Drugs: Prohibition; Exceptions

CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1707 — Waiver Requirements for Off-Site Storage of Records
- 1718 — Current Inventory Defined
- 1761(b) — Erroneous or Uncertain Prescriptions
- 1771 — Posting of Notice of Suspension

- 1772 — Disciplinary Condition of Suspension
- 1773 — Disciplinary Conditions of Probation of Pharmacist
- 1774 — Disciplinary Conditions of Probation of Permit

HEALTH AND SAFETY CODE

- 11104 — Providing Chemical for Illicit Manufacturing; Evasion of Reporting Requirements; Penalties
- 11105 — False Statement in Report
- 11150 — Persons Authorized to Write or Issue a Prescription
- 11153 — Responsibility for Legitimacy of Prescription; Corresponding Responsibility of Pharmacist; Knowing Violation
- 11153.5 — Wholesaler or Manufacturer Furnishing Controlled Substance Other Than for Legitimate Medical Purpose; Knowing Violation; Factors in Assessing Legitimacy
- 11157 — No False or Fictitious Prescriptions
- 11162.5 — Counterfeiting or Possession of Counterfeit Triplicate Prescription Blank; Penalty
- 11173 — Fraud, Deceit, Misrepresentation or False Statement; False Representation; False Label
- 11174 — Prohibition on Providing False Name or Address in Connection with Prescription, etc.
- 11351 — Possession or Purchase for Sale of Specified Controlled Substance
- 11368 — Forged or Altered Prescriptions
- 11375 — Possession for Sale or Selling Specified Substance
- 11378 — Possession for Sale
- 11550 — Using or Being Under Influence of Controlled Substance
- 11167.5 — Pharmacy Generated Prescription for Schedule II Controlled Substances in a Skilled Nursing Facility
- 111295 — Manufacturing, Selling, or Offering for Sale an Adulterated Drug or Device
- 111300 — Unlawful to Adulterate a Drug
- 111305 — Unlawful to Receive in Commerce an Adulterated Drug
- 111440 — Unlawful Manufacturer, Selling a Misbranded Drug
- 111445 — Unlawful for a Person to Misbrand
- 111450 — Unlawful to Receive into Commerce a Drug that is Misbranded

CATEGORY IV

Penalty: Revocation

Category IV discipline (Revocation) is recommended for the most serious violations of laws or regulations pertaining to pharmacy and/or to the dispensing or distributing of dangerous drugs or controlled substances. Violations in this category may include: the Uniform Controlled Substance Act (Health and Safety Code 11000 et seq.) involving:

- possession for sale violations involving possession for sale, transportation, importation, and/or use of a minor for unlawful sale of controlled substances;
- transportation criminal convictions involving the above, or repeat convictions involving diversion or abuse of alcohol, dangerous drugs, or controlled substances; and
- repeated or serious example(s) of conduct described in Category I, Category II, or Category III.

- ~~▪ importation~~
- ~~▪ sale~~
- ~~▪ use of a minor for the unlawful sale of controlled substances~~

Revocation is also recommended ~~when:~~ where a respondent fails to file a notice of defense to an Accusation or to appear at a disciplinary hearing, where a respondent violates the terms and conditions of probation from a previous disciplinary order, or where prior discipline has been imposed on the license.

- ~~▪ a respondent fails to file a notice of defense or to appear at a disciplinary hearing where the board has requested revocation in the accusation~~
- ~~▪ a respondent violates the terms and conditions of probation from a previous disciplinary order~~
- ~~▪ prior discipline has been imposed, as progressive discipline unless the respondent can demonstrate satisfactory evidence of rehabilitation.~~

Violations of the following codes are ~~representative of this category:~~

HEALTH AND SAFETY CODE

- ~~11352 — Importing, Selling, Furnishing Controlled Substance~~
- ~~11353 — Adult Inducing Minor to Violate Provisions~~
- ~~11379 — Transporting, Importing, Selling Controlled Substance~~
- ~~11380 — Adult Using, Soliciting or Intimidating Minor for Violation~~

MODEL DISCIPLINARY LANGUAGE - PHARMACIST/INTERN PHARMACIST INDIVIDUAL LICENSEES (PHARMACIST, INTERN PHARMACIST, PHARMACY TECHNICIAN, DESIGNATED REPRESENTATIVE)

The following standardized language shall be used in every decision where the order or condition is imposed.

Revocation

License number _____, issued to respondent _____, is revoked.

Respondent shall relinquish ~~his or her~~ [his/her] ~~all~~ license, including any indicia of licensure issued by the board, and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not reapply or petition the board for reinstatement of his or her revoked license for three years from the effective date of this decision.

~~Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$_____ within fifteen (15) days of the effective date of this decision.~~

Option: As a condition precedent to reinstatement of his or her revoked license, respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$_____. Said amount shall be paid in full prior to the reapplication or reinstatement of his or her license unless otherwise ordered by the board.

Option: Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$_____ within fifteen (15) days of the effective date of this decision.

Suspension

As part of probation, respondent is suspended from the practice as a [insert license type] for _____ [day(s)/month(s)/year(s)] of pharmacy for _____ beginning the effective date of this decision.

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

During any such suspension, Respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances. ~~Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.~~

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

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

Standard Stay/Probation Order

License number _____, issued to respondent is revoked; however, the revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Issuance of Probationary License (In cases where a Statement of Issues has been filed.)

Upon satisfaction of all statutory and regulatory requirements for issuance of a [insert license type] license, a [insert license type] license shall be issued to respondent and immediately revoked; the order of revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Option: (Pharmacist Interns Only)

Should the board subsequently issue a license to practice as a pharmacist during the period of probation, said license shall be immediately revoked. The revocation of such license shall be stayed, and the probation imposed by this decision and order will continue. Respondent shall be subject to the same terms and conditions imposed by this disciplinary order.

Notwithstanding this provision, the Board reserves the right to deny respondent's application for the pharmacist licensure exam. If the board issues a pharmacist license to respondent, the following additional terms and conditions shall be included as part of the disciplinary order:

Surrender

Respondent surrenders license number _____ as of the effective date of this decision. Respondent shall relinquish his or her ~~wa~~ license, including any indicia of licensure issued by the board, and/or pocket renewal license to the board within ten (10) days of the effective date of this decision.

The surrender of respondent's license and the acceptance of the surrendered license by the board shall constitute the imposition of discipline against respondent. This decision constitutes a record of discipline and shall become a part of respondent's license history with the board.

Respondent understands and agrees that if ~~he or she~~ [he/she] ever files an application for licensure or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure.

Respondent may not apply for any license, permit, or registration from the board for three years from the effective date of this decision. Respondent stipulates that should ~~he or she~~ [he/she] apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true, correct

and admitted by respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to taking and passing licensing examination(s) as well as fulfilling any education or experience requirements the California Pharmacist Licensure Examination prior to the issuance of a new license. Respondent is required to report this surrender as disciplinary action.

Respondent further stipulates that ~~he or she~~ [he/she] shall reimburse the board for its costs of investigation and prosecution in the amount of \$ _____ within _____ days of the effective date of this decision.

Option: Respondent stipulates that should ~~he or she~~ [he/she] apply for any license from the board on or after the effective date of this decision the investigation and prosecution costs in the amount of \$ _____ shall be paid to the board prior to issuance of the new license.

Public Reprimand

It is hereby ordered that a public reprimand be issued against licensee, _____. Respondent is required to report this reprimand as a disciplinary action.

License Reinstatement Order with Conditions Prior to Issuing License

It is hereby ordered that the petition for reinstatement filed by _____ is hereby granted and Petitioner's License No. _____ will be reinstated upon the following conditions precedent:

- a. _____ Petitioner shall take and pass the [North American Pharmacist Licensure Examination (NAPLEX) and/or the California Practice Standards and Jurisprudence Examination for Pharmacists (CPJE)/Pharmacy Technician Certification Board exam] within one (1) year of the effective date of this order.
- b. _____ Petitioner must pay the fee in place at the time for these examinations.
- c. _____ Petitioner must pay a reinstatement fee in the amount of \$ _____.

Option: Petitioner pays the Board's cost recovery or fine amount owed to the Board in the amount of \$ _____.

Upon completion of the conditions precedent above, Petitioner's license shall be REINSTATED. Upon reinstatement, Petitioner's license shall be REVOKED. However, said revocation shall be STAYED, and Petitioner shall be placed on PROBATION for a period of _____ year(s)] under the following terms and conditions:

License Reinstatement

It is hereby ordered that the petition for reinstatement filed by _____ is hereby GRANTED and Petitioner's license shall be REINSTATED. Upon reinstatement, Petitioner's license shall be REVOKED. However, said revocation shall be STAYED, and Petitioner shall be placed on PROBATION for a period of _____ years under the following terms and conditions:

Adoption of Stipulation

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Office of the Attorney General. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

STANDARD CONDITIONS - To be included in all probation decisions/orders.

1. Obey All Laws
2. Report to the Board
3. Interview with the Board
4. Cooperate with Board Staff
5. Continuing Education
6. Reporting of Employment and Notice to Employers
7. Notification of Change(s) in Name, Employment, Address(es), or Phone Number(s)
- ~~7-8.~~ No Supervision of Interns, Serving as Pharmacist In-Charge (PIC), or Serving as a Consultant
- ~~8~~ 9. Reimbursement of Board Costs
- ~~9-10.~~ 10. Probation Monitoring Costs
- ~~10~~ 11. Status of License
- ~~11~~ 12. License Surrender While on Probation/Suspension
- ~~12.~~ 12. Notification of a Change in Name, Residence Address, Mailing Address or Employment
- ~~13.~~ 13. Certification Prior to Resuming Work
- ~~14.~~ 14. Notification of Departure
- ~~13-15.~~ 15. Tolling of Probation License Practice Requirement - Tolling
- ~~14.~~ 16. Violation of Probation
- ~~15.~~ 17. Completion of Probation

OPTIONAL CONDITIONS

- ~~18.~~ 18. Suspension
- ~~16.~~ 19. Restricted Practice
- ~~17.~~ 20. Pharmacist Examination
- ~~18.~~ 21. Mental Health Examination Clinical Diagnostic Evaluation
- ~~19.~~ 22. Psychotherapy
- ~~20.~~ 23. Medical Evaluation
- ~~21.~~ 24. Pharmacists Recovery Program (PRP)
- ~~22.~~ 25. Random Drug Screening Drug and Alcohol Testing
- ~~23.~~ 26. Abstain from Drugs and Alcohol Use
- ~~24.~~ 27. Prescription Coordination and Monitoring of Prescription Use
- ~~28.~~ 28. Facilitated Group Recovery and/or Support Meetings
- ~~29.~~ 29. Attend Substance Abuse Recovery Relapse Prevention and Support Groups
- ~~30.~~ 30. Work Site Monitor
- ~~25.~~ 31. Community Service Program
- ~~26.~~ 32. Restitution
- ~~27.~~ 33. Remedial Education
- ~~28.~~ 34. Pharmacy Self-Assessment Mechanism (PSAM)
- ~~29.~~ 34. Intern Pharmacist Experience
- ~~30.~~ 35. Supervised Practice
- ~~31.~~ 36. No Supervision of Ancillary Personnel
- ~~32.~~ 36. No Ownership or Management of Licensed Premises
- ~~33.~~ 37. Separate File of Controlled Substances Records
- ~~34.~~ 38. Report of Controlled Substances
- ~~35.~~ 39. No Access to Controlled Substances
- ~~36.~~ 40. Criminal Probation/Parole Reports
- ~~37.~~ 41. Consultant for Owner or Pharmacist In-Charge
- ~~41.~~ 41. Tolling of Suspension

~~39.42.~~ Surrender of DEA Permit
~~40.43.~~ Ethics Course

STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's _____ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. Report to the Board

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

3. Interview with the Board

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

4. Cooperate with Board Staff

Respondent shall timely cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of ~~his or her~~ [his/her] probation, including but not limited to: timely responses to requests for information by board staff; timely compliance with directives from board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

5. Continuing Education (Pharmacists Only)

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

6. Reporting of Employment and Notice to Employers

During the period of probation, respondent shall provide the board with written consent authorizing communication with all employers and shall notify all present and prospective employers of the decision in case number _____ and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of undertaking any new employment, respondent shall report to the board in writing the name, physical address, and mailing address of all of [his/her] employer(s), and the name(s) and telephone number(s) of all of [his/her] direct supervisor(s), as well as any pharmacist(s)-in-charge, designated representative(s)-in-charge, or other compliance supervisor(s). Respondent shall sign and return to the board a written consent authorizing the board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board or its designee, concerning respondent's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause (a) his or her [his/her] direct supervisor, (b) his or her pharmacist-in-charge, designated representative-in-charge, or other compliance supervisor, (including each new pharmacist-in-charge employed during respondent's tenure of employment) and (c) the owner or owner representative of his or her employer, to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number _____, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these acknowledgement(s) are timely submitted to the board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of the change acknowledging that he or she has read the decision in case number _____, and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent works for or is employed by or through a pharmacy an employment service, respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board, of the decision in case number _____, and the terms and conditions imposed thereby in advance of respondent commencing work at such licensed entity his or her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number _____ in advance of the respondent commencing work at each licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy an employment service, respondent shall cause the person(s) described in (a), (b), and (c) above his or her direct supervisor with the pharmacy at the employment service to report to the board in writing

acknowledging that he or she has read the decision in case number _____, and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the board ~~his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.~~

Failure to timely notify present or prospective employer(s) or failure to cause the identified person(s) with that/those employer(s) to submit timely written acknowledgments to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision ~~shall include~~ any full-time, part-time, temporary, relief, or employment/management service position as a [insert license type], or any position for which a [insert license type] license or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

7. Notification of Change(s) in Employment, Name, Address(es), or Phone Number(s)¹

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

Failure to timely notify the board of any change in employer, name, address, or phone number shall be considered a violation of probation.

78. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as Designated Representative-in-Charge, or Serving as a Consultant Restrictions on Supervision and Oversight of Licensed Facilities² (Pharmacists or Designated Representatives only)

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge, ~~or~~ designated representative-in-charge, or other compliance supervisor of any entity licensed by the board, ~~nor~~ serve as a consultant unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

Option 1: During the period of probation, respondent shall not supervise any ancillary personnel, including, but not limited to, pharmacy technicians or designated representatives in any entity licensed by the board. Assumption of any such unauthorized ancillary personnel supervision responsibilities shall be considered a violation of probation.

Option 2a: During the period of probation, respondent shall not supervise any intern pharmacist or serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-charge, designated representative-in-charge, or other compliance supervisor of

¹ This term was renamed and renumbered from previous term 12.

² This term was renamed and consolidated with two additional terms: No Supervision of Ancillary Personnel and Consultant for Owner of Pharmacist-in-Charge.

any single entity licensed by the board, but only if respondent or that entity retains, at his/her/its expense, an independent consultant who shall be responsible for reviewing the operations of the entity on a [monthly/quarterly] basis for compliance by respondent and the entity with state and federal laws and regulations governing the practice of the entity, and compliance by respondent with the obligations of his or her supervisory position. Respondent may serve in such a position at only one entity licensed by the board. The consultant shall be a pharmacist licensed by and not on probation with the board, who has been approved by the board or its designee to serve in this position. Respondent shall submit the name of the proposed consultant to the board or its designee for approval within thirty (30) days of the effective date of the decision. Assumption of any unauthorized supervision responsibilities shall be considered a violation of probation. In addition, failure to timely seek approval for, timely retain, or ensure timely reporting by the consultant shall be considered a violation of probation.

Option 2b: During the period of probation, respondent shall not supervise any intern pharmacist or serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-charge, designated representative-in-charge, or other compliance supervisor of any single entity licensed by the board, but only if respondent or that entity retains, at his/her/its expense, an independent consultant who shall be responsible for reviewing the operations of the entity on a [monthly/quarterly] basis for compliance by respondent and the entity with state and federal laws and regulations governing the practice of the entity, and compliance by respondent with the obligations of his or her supervisory position. Respondent may serve in such position at only one entity licensed by the board, and only at an entity of which [he/she] is the sole owner. The consultant shall be a pharmacist licensed by and not on probation with the board, who has been approved by the board or its designee to serve in this position. Respondent shall submit the name of the proposed consultant to the board or its designee for approval within thirty (30) days of the effective date of the decision. Assumption of any unauthorized supervision responsibilities shall be considered a violation of probation. In addition, failure to timely seek approval for, timely retain, or ensure timely reporting by the consultant shall be considered a violation of probation.

Option 2c: During the period of probation, respondent shall not supervise any intern pharmacist or serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-charge, designated representative-in-charge, or other compliance supervisor of any single entity licensed by the board, but only if respondent or that entity retains, at his/her/its expense, an independent consultant who shall be responsible for reviewing the operations of the entity on a [monthly/quarterly] basis for compliance by respondent and the entity with state and federal laws and regulations governing the practice of the entity, and compliance by respondent with the obligations of his or her supervisory position. Respondent may serve in such position at only one entity licensed by the board, and only if respondent is already serving in such a position at the time of the effective date of this decision. The consultant shall be a pharmacist licensed by and not on probation with the board, who has been approved by the board or its designee to serve in this position. Respondent shall submit the name of the proposed consultant to the board or its designee for approval within thirty (30) days of the effective date of the decision. Assumption of any unauthorized supervision responsibilities shall be considered a violation of probation. In addition, failure to timely seek approval for, timely retain, or ensure timely reporting by the consultant shall be considered a violation of probation.

89. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$_____. Respondent shall make said payments as follows: _____.

There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

Option: Respondent shall be permitted to pay these costs in a payment plan approved by the board or its designee, so long as full payment is completed no later than one (1) year prior to the end date of probation.

~~The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.~~

910. Probation Monitoring Costs

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

4011. Status of License

Respondent shall, at all times while on probation, maintain an active, current [insert license type] license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current [insert license type] license shall be considered a violation of probation.

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

4412. License Surrender While on Probation/Suspension

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

Upon acceptance of the surrender, respondent shall relinquish his or her pocket and/or wall license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

12. ~~Notification of a Change in Name, Residence Address, Mailing Address or Employment~~

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

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

13. Certification Prior to Resuming Work (Pharmacy Technicians Only)³

Respondent shall be suspended, and shall not work as a pharmacy technician, until [he/she] has been certified as defined by Business and Professions Code section 4202, subdivision (a)(4), has submitted proof of certification to the board, and has been notified by the board or its designee that [he/she] may begin work. Failure to achieve certification within six (6) months shall be considered a violation of probation. Respondent shall not resume working as a pharmacy technician until notified by the board.

During any such suspension, respondent shall not enter any pharmacy area or any portion of any other board licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) which is licensed by the board, or any manufacturer, or any area where dangerous drugs and devices or controlled substances are maintained. Respondent shall do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the board. Respondent shall not have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

During any such suspension, respondent shall not engage in any activity that requires licensure as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs or devices or controlled substances.

Failure to comply with ~~this~~ any such suspension shall be considered a violation of probation.

Option: Respondent shall maintain an active, current certification as defined by Business and Professions Code section 4202, subdivision (a)(4), for the entire period of probation, and shall submit proof of re-certification or renewal of certification to the board within ten (10) days of receipt. Failure to maintain active, current certification or to timely submit proof of same shall be considered a violation of probation.

14. Notification of Departure⁴

³ This probationary term is not new, but is rather being moved from the "Model Disciplinary language - - Pharmacy Technician" Standard Terms and Conditions for purposes of consolidation.

⁴ This probationary term is not new, but is rather being moved from the "Model Disciplinary language - - Pharmacy Technician" for purposes of consolidation.

Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

13.15. Tolling of Probation License Practice Requirement - Tolling

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist [insert license type] in California for a minimum of _____ hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation, unless the respondent is notified in writing by the board or its designee.

~~Should respondent, regardless of residency, for any reason (including vacation) cease practicing as a pharmacist for a minimum of _____ hours per calendar month in California, If respondent does not practice as a [insert license type] in California for a minimum of _____ hours in any calendar month, for any reason (including vacation), respondent shall must notify the board in writing within ten (10) days of the cessation of practice, and must further notify the board in writing within ten (10) days of the resumption of practice. conclusion of that calendar month. This notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or decline in practice; and the anticipated date(s) on which respondent will resume practice at the required level. Respondent shall further notify the board in writing within ten (10) days following the next calendar month during which respondent practices as a [insert license type] in California for a minimum of _____ hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.~~

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

~~"Cessation of practice" means any calendar month during which respondent is not practicing as a pharmacist for at least _____ hours, as defined by Business and Professions Code section 4000 et seq. "Resumption of practice" means any calendar month during which respondent is practicing as a pharmacist for at least _____ hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.~~

Option 1: As a condition precedent to successful completion of probation, during the period of probation respondent shall practice as a [insert license type] in a licensed _____ in California that dispenses dangerous drugs for a minimum of one (1) year. After the first year or probation, the board or its designee may consider a modification of this requirement. Failure to comply with this requirement (or as modified) shall be considered a violation of probation. Respondent is required to practice as a pharmacist in a licensed pharmacy setting that dispenses medication for a minimum of one year prior to the completion of probation. After the first year of probation, the board or its designee may consider a modification of this requirement.

If respondent fails to comply with this requirement or a subsequent modification thereto, such failure shall be considered a violation of probation.

Option 2: (First-year pharmacist interns only) During respondent's first academic year of enrollment in a school or college of pharmacy, no minimum practice hours shall be required. Instead, respondent shall report to the board quarterly in writing, in a format and schedule as directed by the board or its designee, on [his/her] compliance with academic and vocational requirements, and on [his/her] academic progress. This exemption shall apply only once, and only during respondent's first academic year. Respondent must comply with all other terms and conditions of probation, unless notified in writing by the board or its designee.

14.16. Violation of Probation

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

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. ~~Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license.~~ If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

15.17. Completion of Probation

Upon written notice by the board or its designee indicating successful completion of probation, respondent's license will be fully restored.

OPTIONAL CONDITIONS OF PROBATION

18. Suspension

As part of probation, respondent is suspended from practice as a [insert license type] for _____ [day(s)/month(s)/year(s)] beginning the effective date of this decision.

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

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances.

Failure to comply with any such suspension shall be considered a violation of probation.

Option 1: During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess of ten (10) days during the period of suspension shall be considered a violation of probation, and shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation, unless notified in writing by the board or its designee.

Respondent shall notify the board or its designee in writing within ten (10) days of any departure from California, for any period, and shall further notify the board or its designee in writing within ten (10) days of return. Failure to timely provide such notification(s) shall be considered a violation of probation. Upon such departure and return, respondent shall not resume the practice of pharmacy until notified by the board or its designee that the period of suspension has been satisfactorily completed.

16.19. Restricted Practice

Respondent's practice as a [insert license type] of pharmacy shall be restricted to [specify setting or type of practice] for the first _____ year(s) of probation. Respondent shall submit ~~proof satisfactory~~ proof satisfactory to the board or its designee in writing, of compliance with this term of probation.

Option: Respondent shall not prepare, oversee, or participate in the preparation of injectable sterile products during the first _____ year(s) of probation. Upon request, respondent ~~Respondent~~ shall submit to the board or its designee on writing, satisfactory proof ~~satisfactory~~ of compliance with this restriction, including but not limited to a written acknowledgment of this restriction signed by (a) respondent's direct supervisor, (b) the pharmacist-in-charge, and (c) the owner or owner representative of his or her employer, which explains whether the workplace in question compounds drug products and how this restriction will be enforced ~~term of probation~~. Failure to abide by this restriction or to timely submit proof to the board or its designee of ~~compliance therewith~~ shall be considered a violation of probation.

17.20. Pharmacist Examination (Pharmacists Only)

Respondent shall take and pass the [California Pharmacist Jurisprudence Examination (CPJE) and/or the North American Pharmacist Licensure Examination (NAPLEX)] within six (6) months of the effective date of this decision. If respondent fails to take and pass the examination(s) within six (6) months after the effective of this decision, respondent shall be automatically suspended from practice. Respondent shall not resume the practice of pharmacy until ~~he or she~~ he/she takes and passes the [CPJE and/or NAPLEX] and is notified, in writing, that ~~he or she~~ he/she has passed the examination(s) and may resume practice. Respondent shall bear all costs of the examination(s) required by the board.

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

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices and controlled substances. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

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

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

If respondent fails to take and pass the [CPJE and/or NAPLEX] after four attempts, respondent shall successfully complete, at a minimum, sixteen (16) additional semester units of pharmacy education as approved by the board. The respondent shall submit in writing to the board or its designee satisfactory proof of completion of sixteen (16) additional semester units of pharmacy education. Failure to complete coursework or provide proof of such completion as required shall be considered a violation of probation.

Failure to take and pass the examination(s) within ~~one (1) year~~ six (6) months of the effective date of this decision shall be considered a violation of probation.

18.20. Mental Health Examination Clinical Diagnostic Evaluation (Appropriate for those cases where evidence demonstrates that mental illness psychiatric disorders (mental illness, emotional disturbance, gambling addiction), substance abuse, or disability was a contributing cause of the violation(s).)

Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter if ~~as may be~~ required by the board or its designee, respondent shall undergo, at ~~his or her~~ [his/her] own expense, psychiatric clinical diagnostic evaluation(s) by a ~~board-appointed or board-approved~~ licensed mental health practitioner selected or approved prior to the evaluation by the board or its designee. The approved evaluator shall be provided with a copy of the board's [accusation, or petition to revoke probation, or other pleading] and decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacist [insert license type] with safety to the public. Respondent shall comply with all the recommendations of the evaluator if directed by the board or its designee. If the evaluator recommends restrictions or conditions on respondent's practice, including but not limited to, other terms and conditions listed in these guidelines (e.g., required psychotherapy, prescription coordination and monitoring, restricted practice), the board or its designee may by

written notice to respondent adopt these restrictions or conditions as additional probation terms and conditions, violation of which shall be considered a violation of probation.

~~If the evaluator recommends, and the board or its designee directs, respondent shall undergo psychotherapy. Within thirty (30) days of notification by the board that a recommendation for psychotherapy has been accepted, respondent shall submit to the board or its designee, for prior approval, the name and qualification of a licensed mental health practitioner of respondent's choice. Within thirty (30) days of approval thereof by the board, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment therewith, submit the name of a replacement licensed mental health practitioner of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.~~

~~Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's expense, a mental health evaluation by a separate board-appointed or board-approved evaluator. If the approved evaluator recommends that respondent continue psychotherapy, the board or its designee may require respondent to continue psychotherapy.~~

~~Psychotherapy shall be at least once a week unless otherwise approved by the board. Respondent shall provide the therapist with a copy of the board's [accusation or petition to revoke probation] and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and other such information as may be required by the board or its designee.~~

~~If at any time the approved evaluator or therapist determines that respondent is unable to practice safely or independently as a pharmacist, the licensed mental health practitioner shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.~~

Option 1: (Appropriate for those cases where evidence demonstrates substance abuse): The evaluation(s) shall be conducted in accordance with acceptable professional standards for alcohol or substance abuse clinical diagnostic evaluations. The written report(s) shall set forth, at least, the opinions of the evaluator as to: whether respondent has an alcohol or substance abuse problem; whether respondent is a threat to him/herself or others; and recommendations for alcohol or substance abuse treatment, practice restrictions, or other steps related to respondent's rehabilitation and safe practice. If the evaluator determines during the evaluation process that respondent is a threat to him/herself or others, the evaluator shall notify the board within twenty-four (24) hours.

Commencing on the effective date of this decision, respondent is suspended from practice and shall not practice as a [insert license type] until:

- Respondent has undergone and completed clinical diagnostic evaluation(s);
- The report(s) of the evaluation(s) has/have been received by the board or its designee;
- One or more report(s) has concluded that respondent is safe to return to practice as a [insert license type];
- Respondent has submitted to observed bodily fluid testing for the presence of alcohol, dangerous drugs, or controlled substances [pursuant to Term and Condition 24] at least twice per week for at least thirty (30) days;
- During the testing period, respondent has not had a confirmed positive test result for alcohol, or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment, for at least thirty (30) days;
- The board or its designee has determined that respondent is safe to return to either full-time or part-time practice as a [insert license type], after considering the evaluation report(s), the results of the fluid testing, and criteria including the license type, respondent's history, respondent's documented period of sobriety or documented time since last use, respondent's scope and pattern of use, respondent's treatment history, respondent's medical history and current medical condition, the nature, duration, and severity of respondent's alcohol or substance abuse, and whether respondent is a threat to him/herself or others; and
- Respondent receives written notice from the board or its designee that practice may resume.

The board or its designee shall select or approve evaluator(s) holding a valid, unrestricted license to practice, with a scope of practice that includes the conduct of clinical diagnostic evaluations and at least three (3) years experience conducting such evaluations of health professionals with alcohol or substance abuse problems. The evaluator(s) shall not have a financial relationship, personal relationship, or business relationship with respondent within the last five (5) years. The evaluator(s) shall provide an objective/ unbiased, and independent evaluation of respondent.

For all such evaluations, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed thirty (30) days. During any such suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs or devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and controlled substances.

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

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances.

Option 2: Commencing on the effective date of this decision, respondent is suspended from practice and shall not engage in the practice of pharmacy practice as a [insert license type] until notified in writing by the board that respondent has been deemed psychologically fit to practice pharmacy safely, and the board or its designee approves said recommendation the evaluator recommends that respondent return to practice, this recommendation is accepted by the board or its designee, and respondent receives written notice from the board or its designee that practice may resume.

The final written report of the evaluation shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed thirty (30) days.

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

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances. ~~Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.~~

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

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

(Option language to be used in addition to standard language)

Option 3: ~~If recommended by the evaluating licensed mental health practitioner and approved by the board, respondent shall be suspended from practicing pharmacy until respondent's treating therapist recommends, in writing, stating the basis therefor, that respondent can safely practice pharmacy, and the board or its designee approves said recommendation.~~ evaluator, the board or its designee may suspend respondent from practice as a [insert license type] by providing written notice of suspension to the respondent. Upon suspension, respondent shall not resume practice as a [insert license type] until: 1) another evaluation done at respondent's expense by a licensed practitioner selected or approved by the board or its designee; 2) the evaluator recommends that respondent return to practice; 3) the board or its designee accepts

the recommendation; 4) and the board notifies the respondent in writing that practice may resume.

The report(s) from any such additional evaluation(s) shall be provided to the board or its designee in writing by the evaluator no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed thirty (30) days.

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

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances. ~~Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.~~

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

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

19.21. Psychotherapy (Appropriate for those cases where the evidence demonstrates ~~mental illness~~ psychiatric disorders (mental illness, emotional disturbance, gambling addiction) or alcohol or drug abuse was involved in the violation(s).)

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, the name and qualifications of a licensed mental health practitioner of respondent's choice. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the board, and the board or its designee agrees by way of a

written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's own expense, a mental health evaluation by a board-appointed or board-approved psychiatrist or psychologist. If the approved evaluator recommends that respondent continue psychotherapy, the board or its designee may require respondent to continue psychotherapy.

Psychotherapy shall be at least once a week unless otherwise approved by the board. Respondent shall provide the therapist with a copy of the board's accusation and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and such other information as may be required by the board or its designee.

If at any time the treating therapist determines that respondent cannot practice safely or independently, the therapist shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

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

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances

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

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

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

20.22. Medical Evaluation (Appropriate for those cases where the evidence demonstrates that the respondent has had a physical problem/disability which was a contributing cause of the violations and which may affect the respondent's ability to practice.)

Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter as may be required by the board or its designee, respondent shall undergo a medical evaluation, at respondent's own expense, by a board-appointed or board-approved physician who shall furnish a medical report to the board. The approved physician shall be provided with a copy of the board's [accusation or petition to revoke probation] and decision. A record of this notification must be provided to the board upon request. Respondent shall sign a release authorizing the physician to furnish the board with a current diagnosis and a written report regarding the respondent's ability to function independently as a ~~pharmacist~~ [insert license type] with safety to the public. Respondent shall comply with all the recommendations of the physician if directed by the board or its designee.

If the physician recommends, and the board or its designee directs, that respondent undergo medical treatment, respondent shall, within thirty (30) days of written notice from the board, submit to the board or its designee, for prior approval, the name and qualifications of a licensed physician of respondent's choice. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of treatment with the approved physician. Should respondent, for any reason, cease treatment with the approved physician, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician of respondent's choice to the board or its designee for prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of treatment with the approved replacement. Failure to comply with any deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent physician, respondent shall undergo and continue treatment with that physician, at respondent's own expense, until the treating physician recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further treatment is necessary. Upon receipt of such recommendation from the treating physician, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's own expense, a medical evaluation by a separate board-appointed or board-approved physician. If the approved evaluating physician recommends that respondent continue treatment, the board or its designee may require respondent to continue treatment.

Respondent shall take all necessary steps to ensure that any treating physician submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and other such information as may be required by the board or its designee.

If at any time an approved evaluating physician or respondent's approved treating physician determines that respondent is unable to practice safely or independently as a ~~pharmacist~~ [insert license type], the evaluating or treating physician shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

During any such suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or

be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs or devices or ~~and~~ controlled substances. ~~Respondent shall not resume practice until notified by the board.~~

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances. ~~Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.~~

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

Failure to comply with ~~this~~ any such suspension shall be considered a violation of probation.

(Option language to be used in addition to standard language)

Option 1: Commencing on the effective date of this decision, respondent shall not engage in the practice of ~~pharmacy~~ as a [insert license type] until notified in writing by the board that respondent has been deemed medically fit to practice safely and independently, and the board or its designee approves said recommendation.

During any such suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs ~~and~~ or devices or controlled substances are maintained. Respondent shall not practice ~~pharmacy~~ as a [insert license type] nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs or controlled substances. Respondent shall not resume practice until notified by the board.

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances. ~~Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.~~

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

Failure to comply with ~~this~~ any such suspension shall be considered a violation of probation.

(Option language to be used in addition to standard language)

Option 2: If recommended by the evaluating physician and approved by the board, respondent shall be suspended from practicing ~~pharmacy~~ as a [insert license type] until the treating physician recommends, in writing, stating the basis therefor, that respondent can safely and independently resume the practice of a pharmacist, and the board or its designee approves said

recommendation. Respondent shall not resume practice until notified by the board that practice may be resumed.

During any such suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs ~~and~~ or devices or controlled substances are maintained. Respondent shall not practice ~~pharmacy as a [insert license type]~~ nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs ~~and~~ or devices or controlled substances. ~~Respondent shall not resume practice until notified by the board.~~

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances. ~~Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.~~

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

Failure to comply with ~~this~~ any such suspension shall be considered a violation of probation.

21-23. Pharmacists Recovery Program (PRP) (Appropriate for those cases where evidence demonstrates substance abuse chemical dependency (alcohol, drugs), or psychiatric disorders (mental illness, emotional disturbance, gambling addiction) (Pharmacists and Pharmacist Interns Only)

~~By no later than ten (10) days after~~ Within thirty (30) days of the effective date of this decision, respondent shall have completed all of the following: contacted the Pharmacists Recovery Program (PRP) for evaluation; enrolled in the PRP; completed, signed, and returned the treatment contract plus any addendums required or suggested by the PRP; successfully completed registration for any drug or alcohol testing mandated by the treatment contract and/or by enrollment in the PRP; and begun compliance with the drug or alcohol testing protocol(s). ~~contact the Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll, successfully participate in, and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the board or its designee. Respondent shall successfully participate in the PRP and complete the treatment contract and any addendums required or suggested by the PRP and approved by the board or its designee.~~ The costs for PRP participation shall be borne by the respondent.

If respondent is currently enrolled in the PRP, said participation is now mandatory and as of the effective date of this decision is no longer considered a self-referral under Business and Professions Code section 4362(e) (a)(2). Respondent shall successfully participate in and complete his or her current contract and any subsequent addendums with the PRP.

Failure to timely contact or enroll in the PRP, complete the treatment contract and any addendums, complete testing registration, comply with testing, and/or successfully participate in and complete the treatment contract and/or any addendums, shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation. Respondent shall not resume practice until notified in writing by the board or its designee.

Probation shall be automatically extended until respondent successfully completes the PRP. Any person terminated from the PRP program shall be automatically suspended by the board. Respondent may not resume the practice of pharmacy until notified by the board in writing.

Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation. Respondent may not resume the practice of pharmacy until notified by the board in writing.

During any such suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and or devices or controlled substances are maintained. Respondent shall not practice pharmacy as a [insert license type] nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and or devices or controlled substances. ~~Respondent shall not resume practice until notified by the board.~~

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances. ~~Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.~~

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

Failure to comply with any such ~~this~~ suspension shall be considered a violation of probation.

Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

(Option language to be used in addition to standard language)

Option: Respondent shall work in a pharmacy setting with access to controlled substances for six (6) consecutive months before successfully completing probation the PRP. If respondent fails to do so, probation shall be automatically extended until this condition has been met. Failure to satisfy this condition within six (6) months beyond the original date of expiration of the term of probation shall be considered a violation of probation.

22. 24. Random Drug Screening Drug and Alcohol Testing (If PRP provision is required, this term is also to be included to allow for continued fluid monitoring by the Board in cases where a respondent successfully completes the PRP before completion of the probation period; terms is also appropriate for those cases where the evidence demonstrates that the respondent may have a problem with chemical dependency (drugs, alcohol) but where the PRP is not required—(Appropriate for those cases where the evidence demonstrates substance abuse.)

Respondent, at his or her [his/her] own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee. At all times, respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, controlled substances, and dangerous drugs, or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension of practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until notified by the board in writing. Testing protocols may include biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its designee. All testing must be pursuant to an observed testing protocol, unless respondent is informed otherwise in writing by the board or its designee. Respondent may be required to participate in testing for the entire probation period and frequency of testing will be determined by the board or its designee.

By no later than thirty (30) days after the effective date of this decision, respondent shall have completed all of the following tasks: enrolled and registered with an approved drug and alcohol testing vendor; provided that vendor with any necessary information and documentation, and any information necessary for payment by respondent; commenced testing protocols, including all required contacts with the testing vendor to determine testing date(s); and begun testing. At all times, respondent shall fully cooperate with the testing vendor, and with the board or its designee, with regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to cooperate timely shall be considered a violation of probation.

Respondent may be required to test on any day, including weekends and holidays. Respondent is required to make daily contact with the testing vendor to determine if a test is required, and if a test is required must submit to testing on the same day.

Though the frequency of testing will be determined by the board or its designee, and shall be designed so as to prevent respondent from anticipating testing dates (either randomized testing or unpredictable dates), the frequency of testing shall be at least the following: at least fifty-two (52) test dates during the first year of probation; at least thirty-six (36) test dates during the second, third, fourth, and fifth years of probation; and at least one (1) test per month in each year of probation after the fifth so long as there have been no positive test results during the previous five (5) years. The board or its designee may require less frequent testing if any of the following applies:

- Where respondent has previously participated in a treatment or monitoring program requiring testing, the board or its designee may consider that prior testing record in applying the three-tier testing frequency schedule described above;
- Where the basis for probation or discipline is a single incident or conviction involving alcohol or drugs, or two incidents or convictions involving alcohol or drugs that were at least seven (7) years apart, that did not occur at work or on the way to or from work, the board or its designee may skip the first-year testing frequency requirement(s);
- Where respondent is not employed in any health care field, frequency of testing may be reduced to a minimum of twelve (12) tests per year. If respondent wishes to thereafter return to employment in a health care field, respondent shall be required to test at least once a week for a period of sixty (60) days before commencing such employment, and shall thereafter be required to test at least once a week for a full year, before [he/she] may be reduced to a testing frequency of at least thirty-six (36) tests per year, and so forth;
- Respondent's testing requirement may be suspended during any period of tolling of the period of probation;
- Where respondent has a demonstrated period of sobriety and/or non-use, the board or its designee may reduce the testing frequency to no less than twenty-four (24) tests per year.

Any detection through testing of alcohol, or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment, may cause the board or its designee to increase the frequency of testing, in addition to any other action including but not limited to further disciplinary action.

Prior to any vacation or other period of absence from the geographic area of the approved testing vendor, respondent shall seek and receive approval from the board or its designee of an alternate testing vendor in the geographic area to be visited or resided in by respondent. Upon approval, respondent shall enroll and register with the approved alternate drug testing vendor, provide that alternate vendor with any necessary information and documentation, including any necessary payment by respondent. During the period of visitation or residence in the alternate geographic area, respondent shall commence testing protocols with the alternate vendor, including required daily contacts with the testing vendor to determine if testing is required, and required testing. Any failure to timely seek or receive approval from the board or its designee, or to timely enroll and register with, timely commence testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be considered a violation of probation.

Upon detection through testing of a controlled substance or dangerous drug, the board or its designee may require respondent to timely provide documentation from a licensed practitioner authorized to prescribe the detected substance demonstrating that the substance was administered or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such documentation shall be provided by respondent within ten (10) days of being requested.

Any of the following shall be considered a violation of probation and shall result in respondent being immediately suspended from practice as a [insert license type] until notified by the board in writing that [he/she] may resume practice: failure to timely complete all of the steps required for enrollment/registration with the drug testing vendor, including making arrangements for payment; failure to timely commence drug testing protocols; failure to contact the drug testing vendor as required to determine testing date(s); failure to test as required; failure to timely supply documentation demonstrating that a detected substance was taken pursuant to a

legitimate prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In the event of a suspension ordered after detection through testing of alcohol, or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee shall inform respondent of the suspension and inform [him/her] to immediately leave work, and shall notify respondent's employer(s) and work site monitor(s) of the suspension.⁵

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

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices. ~~Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.~~

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

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

Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The appropriate board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

23-25. Abstain from Drugs and Alcohol Use

Respondent shall completely abstain from the possession or use of alcohol, controlled

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2. The Terms of Probation Designated Representative are now consolidated into "Terms of Probation – Individual Licensees."

substances, dangerous drugs, or ~~and~~ their associated paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a necessary part of treatment. ~~the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation.~~ Respondent shall ensure that he or she [he/she] is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, dangerous drugs or controlled substances, or their associated paraphernalia not supported by for which a legitimate prescription has been issued as a necessary part of treatment, ~~the documentation timely provided, and/or~~ or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

24.26. Prescription Coordination and Monitoring of Prescription Use (Appropriate for those cases where the evidence demonstrates substance abuse chemical dependency (alcohol, drugs), or psychiatric disorders (mental illness, emotional disturbance, gambling addiction))

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's history [with the use of alcohol, controlled substances, and/or dangerous drugs, and/or of mental illness, and/or of gambling addiction] and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's [accusation or petition to revoke probation] and decision. A record of this notification must be provided to the board upon request. Respondent shall sign a release authorizing the practitioner to communicate with the board or its designee about respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board or its designee may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any reason, cease supervision by the approved practitioner, respondent shall notify the board or its designee immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the board or its designee for approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered a violation of probation.

If at any time an approved practitioner determines that respondent is unable to practice safely or independently as a ~~pharmacist~~ [insert license type], the practitioner shall notify the board or its designee immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice as a [insert license type] until notified by the board or its designee that practice may be resumed.

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

During any such suspension, respondent shall not engage in any activity that requires the professional judgment and/or licensure as a [insert license type] ~~of a pharmacist.~~ Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs or devices or controlled substances. ~~Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.~~

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

Failure to comply with any such ~~this~~ suspension shall be considered a violation of probation.

25.27. Community Services Program

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, a community service program in which respondent shall provide free [insert type of service e.g., health-care related services] on a regular basis to a community or charitable facility or agency for at least _____ hours per _____ for the first _____ of probation. Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board or its designee demonstrating commencement of the community service program. ~~A record of this notification must be provided to the board upon request.~~ Respondent shall report on progress with the community service program in the quarterly reports and provide satisfactory documentary evidence of such progress to the board or its designee upon request. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

26.28. Restitution (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

Within _____ days of the effective date of this decision, respondent shall pay restitution to _____ in the amount of \$ _____. Failure to make restitution by this deadline shall be considered a violation of probation.

27.29. Remedial Education

Within [thirty (30), sixty (60), ninety (90)] days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, an appropriate program of remedial education related to [the grounds for discipline]. The program of remedial education shall consist of at least _____ hours, which shall be completed within _____ months/year at respondent's own expense. All remedial education shall be in addition to, and shall not be

credited toward, continuing education (CE) courses used for license renewal purposes for pharmacists.

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

Following the completion of each course, the board or its designee may require the respondent, at ~~his or her~~ [his/her] own expense, to take an approved examination to test the respondent's knowledge of the course. If the respondent does not achieve a passing score on the examination, this failure shall be considered a violation of probation. Any such examination failure shall require respondent to take another course approved by the board in the same subject area.

Option: Respondent shall be restricted from the practice of [areas where a serious deficiency has been identified] until the remedial education program has been successfully completed.

~~28.~~ Pharmacy Self-Assessment Mechanism

~~Within the first year of probation, respondent shall complete the Pharmacist Self-Assessment Mechanism (PSAM) examination provided by the National Association of Boards of Pharmacy (NABP). Respondent shall submit a record of completion to the board demonstrating he/she has completed this examination. Respondent shall bear all costs for the examination. Continuing education hours received for this examination shall not be used as part of the required continuing education hours for renewal purposes.~~

~~Failure to timely complete the PSAM or submit documentation thereof shall be considered a violation of probation.~~

~~Option A:~~ ~~Respondent shall waive any rights to confidentiality and provide examination results to the board or its designee.~~

~~Option B:~~ ~~(This term must be accompanied by the "Remedial Education" term. [Include/Modify Remedial Education Term to Conform].) Respondent shall waive any rights to confidentiality and provide examination results to the board or its designee. Based on the results of the examination, the board shall determine which courses are appropriate for remedial education.~~

~~29.~~ 30. Intern Pharmacist Experience (Pharmacist Interns Only)

Within ninety (90) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, a pharmacy intern training program consisting of _____ hours to be served as an intern pharmacist in a community and/or institutional pharmacy as directed. Respondent shall successfully complete the intern hours within the first year of probation and shall, by no later than one (1) year and ten (10) days from the effective date of this decision, submit proof satisfactory to the board of completion of this experience signed under penalty of perjury by both the respondent and supervising pharmacist. Failure to timely complete or document the required intern experience shall be considered a violation of probation.

~~30.~~ 31. Supervised Practice (Pharmacists, Pharmacist Interns and Designated

Representatives Only)

~~During the period of probation, respondent shall practice only under the supervision of a licensed pharmacist not on probation with the board. Upon and after the effective date of this decision, respondent shall not practice pharmacy and his or her license shall be automatically suspended until a supervisor is approved by the board or its designee. The supervision shall be, as required by the board or its designee, either: Within thirty (30) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, the name of a [insert license type] licensed by and not on probation with the board, to serve as respondent's practice supervisor. As part of the documentation submitted, respondent shall cause the proposed practice supervisor to report to the board in writing acknowledging that he or she has read the decision in case number [insert case number], and is familiar with the terms and conditions imposed thereby, including the level of supervision required by the board or its designee. This level will be determined by the board or its designee, will be communicated to the respondent on or before the effective date of this decision and shall be one of the following:~~

Continuous – At least 75% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

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

~~Respondent may practice only under the required level of supervision by an approved practice supervisor. If, for any reason, including change of employment, respondent is no longer supervised at the required level by an approved practice supervisor, within ten (10) days of this change in supervision respondent shall submit to the board or its designee, for prior approval, the name of a [insert license type] licensed by and not on probation with the board, to serve as respondent's replacement practice supervisor. As part of the documentation submitted, respondent shall cause the proposed replacement practice supervisor to report to the board in writing acknowledging that he or she has read the decision in case number [insert case number], and is familiar with the terms and conditions imposed thereby, including the level of supervision required.~~

~~Any of the following shall be considered a violation of probation: failure to timely nominate either an initial or a replacement practice supervisor; failure to cause the practice supervisor to timely report to the board in writing acknowledging the decision, terms and conditions, and supervision level; practicing in the absence of an approved practice supervisor after lapse of the nomination period; and/or failure to adhere to the level of supervision required by the board or its designee. If any of these obligations or prohibitions is not met, respondent shall be automatically suspended from practice as a [insert license type] and may not resume such practice until notified by the board or its designee in writing..~~

~~Within thirty (30) days of the effective date of this decision, respondent shall have his or her supervisor submit notification to the board in writing stating that the supervisor has read the decision in case number _____ and is familiar with the required level of supervision as determined by the board or its designee. It shall be the respondent's responsibility to ensure that his or her employer(s), pharmacist in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Failure to cause the direct supervisor and the pharmacist in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.~~

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

~~Within ten (10) days of leaving employment, respondent shall notify the board in writing.~~

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

~~During any such suspension, respondent shall not engage in any activity that requires the professional judgment and/or licensure as a [insert license type] of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs or devices or controlled substances. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.~~

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

~~Failure to comply with this any such suspension shall be considered a violation of probation.~~

31. ~~No Supervision of Ancillary Personnel~~²

~~During the period of probation, respondent shall not supervise any ancillary personnel, including, but not limited to, pharmacy technicians or designated representatives in any entity licensed by the board.~~

~~Failure to comply with this provision shall be considered a violation of probation.~~

32. No Ownership or Management of Licensed Premises

Respondent shall not own, have any legal or beneficial interest in, ~~or~~ nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written

proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

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

33. Separate File of Controlled Substances Records (~~For pharmacist~~ Pharmacist owners and pharmacists-in-charge)

Respondent shall maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such file or make it available for inspection shall be considered a violation of probation.

34. Report of Controlled Substances (~~For pharmacist~~ Pharmacist owners and pharmacists-in-charge)

Respondent shall submit ~~quarterly~~ reports to the board detailing the total acquisition and disposition of such controlled substances as the board or its designee may direct. Respondent shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent shall report on a quarterly basis or as directed by the board or its designee. The report shall be delivered or mailed to the board no later than ten (10) days following the end of the reporting period as determined by the board or its designee. Failure to timely prepare or submit such reports shall be considered a violation of probation.

35. No Access to Controlled Substances

During the period of probation and as directed by the board or its designee, respondent shall not order, possess, dispense or otherwise have access to any controlled substance(s) in Schedules I, II, III, IV or V (Health and Safety Code sections ~~11055~~ 11054 -11058 inclusive). Respondent shall not order, receive or retain any security prescription forms. Failure to comply with this restriction shall be considered a violation of probation.

36. Criminal Probation/Parole Reports

Respondent shall provide a copy of the conditions of any criminal probation/parole to the board, in writing, within ten (10) days of the issuance or modification of those conditions. Respondent shall provide the name of ~~his or her~~ [his/her] probation/parole officer to the board, in writing, within ten (10) days after that officer is designated or a replacement for that officer is designated. Respondent shall provide a copy of all criminal probation/parole reports to the board within ten (10) days after respondent receives a copy of such a report. Failure to timely make any of the submissions required hereby shall be considered a violation of probation.

37. ~~Consultant for Owner or Pharmacist-In-Charge⁶~~

~~(Option #1 for pharmacist owners – primarily intended for appropriate cases where the respondent is the sole owner and pharmacist-in-charge of his or her own pharmacy, the standard language should be used in most cases.)~~

~~During the period of probation, respondent shall not supervise any intern pharmacist or serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-charge. However, if during the period of probation respondent serves as a pharmacist-in-charge, respondent shall retain an independent consultant at his or her own expense who shall be responsible for reviewing pharmacy operations on a [monthly/quarterly] basis for compliance by respondent with state and federal laws and regulations governing the practice of pharmacy and for compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation with the board and whose name shall be submitted to the board or its designee, for prior approval, within thirty (30) days of the effective date of this decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of which he or she is not the sole owner. Failure to timely retain, seek approval of, or ensure timely reporting by the consultant shall be considered a violation of probation.~~

~~(Option #2 – appropriate for pharmacists who are not pharmacy owners, but who wish, because of their current employment, to remain as the pharmacist-in-charge, and have provided documented mitigating evidence to warrant this option.)~~

~~During the period of probation, respondent shall not supervise any intern pharmacist, or serve as a consultant to any entity licensed by the board. In the event that the respondent is currently the pharmacist-in-charge of a pharmacy, the pharmacy shall retain an independent consultant at its own expense who shall be responsible for reviewing pharmacy operations on a [monthly/quarterly] basis for compliance by respondent with state and federal laws and regulations governing the practice of pharmacy and for compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation with the board and whose name shall be submitted to the board or its designee, for prior approval. Within thirty (30) days of the effective date of this decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of which he or she is not the current PIC. The board may, in case of an employment change by respondent or for other reasons as deemed appropriate by the board or its designee, preclude the respondent from acting as a pharmacist-in-charge. Failure to timely retain, seek approval of, or ensure timely reporting by the consultant shall be considered a violation of probation.~~

38. ~~Tolling of Suspension~~

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

⁶ This term was consolidated in new term 8 – Restrictions on Supervision and Oversight of Licensed Facilities.

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

39 37. Surrender of DEA Permit (Pharmacists and Pharmacist Interns Only)

Within thirty (30) days of the effective date of this decision, respondent shall surrender ~~his or her~~ [his/her] federal Drug Enforcement Administration (DEA) permit to the DEA, for cancellation. Respondent shall provide documentary proof of such cancellation to the board or its designee. Respondent is prohibited from ~~prescribing~~ dispensing, furnishing, or otherwise providing dangerous drugs or devices or controlled substances until the board has received satisfactory proof of cancellation. Thereafter, respondent shall not apply/reapply for a DEA registration number without the prior written consent of the board or its designee.

Option 1: Respondent may obtain a DEA permit restricted to Schedule(s) _____ controlled substance(s).

Option 2: Respondent shall not order, receive, or retain any federal order forms, including DEA form 222 forms, for controlled substances.

40 38. Ethics Course (Pharmacists and Pharmacist Interns Only)

Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the board or its designee that complies with Title 16 California Code of Regulations section 1773.5. Respondent shall provide proof of enrollment upon request. Within five (5) days of completion, respondent shall submit a copy of the certificate of completion to the board or its designee. Failure to timely enroll in an approved ethics course, to initiate the course during the first year of probation, to successfully and complete it before the end of within the second year of probation, or to timely submit proof of completion to the board or its designee, shall be considered is a violation of probation.

~~Respondent shall submit a certificate of completion to the board or its designee within five days after completing the course.~~

39. Facilitated Group Recovery and/or Support Meetings (Appropriate for those cases where the evidence demonstrates substance abuse.)

Within thirty (30) days of the effective date of this decision, respondent shall begin regular attendance at a group recovery and/or support meeting that is run by a trained facilitator approved in advance by the board or its designee. The required frequency of group meeting attendance shall be determined by the board or its designee, after taking into consideration respondent's history, the documented length of the respondent's sobriety or time since last use, any recommendation(s) from any clinical diagnostic evaluation(s), the scope and pattern of respondent's use, respondent's treatment history, and the nature, duration, and severity of respondent's prior or present substance abuse. Respondent shall continue regular attendance as directed at an approved facilitated group meeting until the board or its designee advises the respondent in writing that [he/she] may cease regular attendance.

The facilitator shall, upon request by the board or its designee, provide the board with a dated document signed by the facilitator that includes respondent's name, the group's name, if any, the date and time of its regular meeting(s), respondent's attendance record, and respondent's participation level and progress. Respondent shall provide signed and dated documentation of attendance as required with each quarterly report. Failure to attend as required or to submit documentation of attendance shall be considered a violation of probation.

The approved facilitator shall report any unexcused absence by respondent from a facilitated group meeting to the board within twenty four (24) hours of its occurrence.

The board or its designee shall select or approve facilitators with at least three (3) years of experience in the treatment and rehabilitation of substance abuse, with a license or certificate from the state or other nationally certified organization. The facilitator(s) shall not have had a financial, personal, or business relationship with respondent within the last year.

40. Attend Substance Abuse Recovery Relapse Prevention and Support Groups
(Appropriate for those cases where the evidence demonstrates substance abuse.)

Within thirty (30) days of the effective date of this decision, respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent must attend at least one group meeting per week unless otherwise directed by the board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

41. Work Site Monitor (Appropriate for those cases where the evidence demonstrates substance abuse.)⁷

Within ten (10) days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board or its designee, who shall be responsible for supervising respondent during working hours. Respondent shall be responsible for ensuring that the work site monitor reports in writing to the board monthly or on another schedule as directed by the board or its designee. Should the designated work site monitor suspect at any time during the probationary period that respondent has abused alcohol or drugs, he or she shall notify the board immediately.

The initial notification shall be made orally within one (1) business day of the occurrence, and shall be followed by written notification within two (2) business days of the occurrence. If, for any reason, including change of employment, respondent is no longer able to be monitored by the approved work site monitor within ten (10) days respondent shall designate a new work site monitor for approval by the board or its designee. Failure to timely identify an acceptable initial or replacement work site monitor, or to ensure monthly reports are submitted to the board by the monitor, shall be considered a violation of probation.

⁷ This probationary term is not new, but is being moved from the previous section "Pharmacy Technician – Standard Terms and Conditions" for purposes of consolidation. The language of this term is also changing from the previous version.

The work site monitor shall not have a financial, personal, familial or other relationship with the respondent that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board or its designee. If it is impractical for anyone but respondent's employer to serve as work site monitor, this requirement may be waived by the board or its designee; however, under no circumstances shall respondent's work site monitor be respondent's employee.

The work site monitor shall hold a license with a scope of practice including the scope of practice of the respondent's license, shall be another health care professional if no monitor with like practice is available, or, as approved by the board or its designee, shall be a person in a position of authority who is capable of monitoring respondent while at work.

If the work site monitor is a licensed healthcare professional he or she shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

Within thirty (30) days of being approved by the board or its designee, the work site monitor shall sign an affirmation that he or she has reviewed the terms and conditions of respondent's disciplinary order and agrees to monitor respondent. The work site monitor shall at least:

- 1) Have regular face-to-face contact with respondent in the work environment, at least once per week or with greater frequency if required by the board or its designee;
- 2) Interview other staff in the office regarding respondent's behavior, if applicable; and
- 3) Review respondent's work attendance.

The written reports submitted to the board or its designee by the work site monitor shall include at least the following information: respondent's name and license number; the monitor's name, license number (if applicable) and work site location; the date(s) the monitor had face-to-face contact with respondent; the staff interviewed, if applicable; an attendance report; notes on any changes in respondent's behavior or personal habits; notes on any indicators that may lead to substance abuse; and the work site monitor's signature.

Respondent shall complete any required consent forms and sign any required agreement with the work site monitor and/or the board to allow the board or its designee to communicate freely on the subject of respondent's work performance and sobriety with the work site monitor.

Option for respondents enrolled in PRP or who are given the PRP enrollment term: It is a condition of respondent's enrollment in the Pharmacists Recovery Program (PRP) that [he/she] is required to have a work site monitor approved by the PRP who shall be responsible for supervising respondent during working hours. Respondent shall be responsible for ensuring that the work site monitor reports in writing to the PRP monthly or on another schedule as directed by the PRP. Should the designated work site monitor suspect at any time during the probationary period that respondent has abused alcohol or drugs, he or she shall notify the PRP immediately. The initial notification shall be made orally within one (1) business day of the occurrence, and shall be followed by written notification within two (2) business days of the occurrence. If, for any reason, including change of employment, respondent is not longer able to be monitored by the approved work site monitor, within ten (10) days of commencing new employment for prior approval by the PRP. Failure to identify an acceptable initial or replacement work site monitor, or to ensure monthly reports are submitted to the PRP by the work site monitor, shall be considered a violation of probation.

The work site monitor shall not have a financial, personal, familial or other relationship with the respondent that could reasonably be expected to compromise the ability of the monitor to render

impartial and unbiased reports to the PRP. If it is impractical for anyone but respondent's employer to serve as work site monitor, this requirement may be waived by the PRP; however, under no circumstances shall respondent's work site monitor be respondent's employee.

The work site monitor shall hold a license with a scope of practice including the scope of practice of the respondent's license, shall be another health care professional if no monitor with like practice is available, or, as approved by the PRP, shall be a person in a position of authority who is capable of monitoring respondent while at work.

If the work site monitor is a licensed healthcare professional he or she shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

Within thirty (30) days of being approved by the PRP, the work site monitor shall sign an affirmation that he or she has reviewed the terms and conditions of respondent's disciplinary order and agrees to monitor respondent. The work site monitor shall at least:

- 1) Have regular face-to-face contact with respondent in the work environment, at least once per week or with greater frequency if required by the board or its designee;
- 2) Interview other staff in the office regarding respondent's behavior, if applicable; and
- 3) Review respondent's work attendance.

The written reports submitted to the PRP by the work site monitor shall include at least the following information: respondent's name and license number; the monitor's name, license number (if applicable) and work site location; the date(s) the monitor had face-to-face contact with respondent; the staff interviewed, if applicable; an attendance report; notes on any changes in respondent's behavior or personal habits; notes on any indicators that may lead to substance abuse; and the work site monitor's signature.

Respondent shall complete any required consent forms and sign any required agreement with the work site monitor and/or the PRP to allow the PRP to communicate freely on the subject of respondent's work performance and sobriety with the work site monitor.

PHARMACY TECHNICIAN

The board files cases against pharmacy technicians where the violation(s) involve significant misconduct on the part of the licensee. The board believes that revocation is typically the appropriate penalty when grounds for discipline are found to exist. Grounds for discipline include, but are not limited to the following violation(s) of law(s) involving:

- Possession of dangerous drugs and/or controlled substances
- Use of dangerous drugs and/or controlled substances
- Possession for sale of dangerous drugs and/or controlled substances
- Personal misuse of drugs or alcohol

If revocation is not imposed, the board recommends a minimum Category III level of discipline be imposed on the pharmacy technician. This would include suspension and probation.

In addition, a pharmacy technician would be required to obtain certification as defined by Business and Professions Code section 4202(a)(4) prior to resuming work as a pharmacy technician. The board believes that certification prior to resuming work is always warranted in cases where a pharmacy technician license is disciplined but not revoked.

Pharmacy technicians are issued a license based on minimal education, training requirements or certification. No examination is required for issuance of the registration. Pharmacy technicians are not independent practitioners and must work under the supervision of a pharmacist. To place a pharmacy technician on probation places an additional burden on the pharmacist (who may or may not be on probation) to ensure that the respondent pharmacy technician complies with the terms and conditions of his or her probation.

TERMS OF PROBATION – PHARMACY TECHNICIAN⁴

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in all probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

CATEGORY OF VIOLATIONS AND RECOMMENDED PENALTIES

CATEGORY III – Penalty

— ~~Minimum: Revocation; Revocation stayed, 90 days actual suspension, three years probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.~~

— ~~Maximum: Revocation~~

~~Applies to all applicable statutes and regulations~~

MODEL DISCIPLINARY LANGUAGE – PHARMACY TECHNICIAN⁸

~~The following standardized language shall be used in every decision where the order of condition is imposed.~~

Revocation

~~Pharmacy technician license number _____, issued to respondent _____ is revoked. Respondent shall relinquish his or her technician license to the board within ten (10) days of the effective date of this decision. Respondent may not reapply or petition the board for reinstatement of his or her revoked technician license for three (3) years from the effective date of this decision.~~

~~A condition of reinstatement shall be that the respondent is certified as defined in Business and Professions Code section 4202(a)(4) and provides satisfactory proof of certification to the board.~~

~~Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ _____ within fifteen (15) days of the effective date of this decision.~~

~~**Option:** As a condition precedent to reinstatement of his or her revoked technician license respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$ _____. Said amount shall be paid in full prior to the reapplication or reinstatement of his or her revoked technician license, unless otherwise ordered by the board.~~

Suspension

~~As part of probation, respondent is suspended from working as a pharmacy technician for _____ beginning the effective date of this decision.~~

~~During suspension, respondent shall not enter any pharmacy area or any portion of or any other board licensed premises (wholesaler, veterinary food animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the board. Respondent shall not have~~

⁸ All information specific to Pharmacy Technician is being removed and consolidated into Terms of Probation – Individual Licensees.

~~access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.~~

~~Respondent shall not direct, control or perform any aspect of the practice of pharmacy. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.~~

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

Standard Stay/Probation Order

Pharmacy technician license number _____ is revoked; however the revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Issuance of Probationary License (In cases where a Statement of Issues has been filed.)

~~Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to respondent and immediately revoked; the order of revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:~~

Surrender

~~Respondent surrenders pharmacy technician license number _____ as of the effective date of this decision. Respondent shall relinquish his or her pharmacy technician license to the board within ten (10) days of the effective date of this decision.~~

~~The surrender of respondent's license and the acceptance of the surrendered license by the board shall constitute the imposition of discipline against respondent. This decision constitutes a record of discipline and shall become a part of respondent's license history with the board.~~

~~Respondent understands and agrees that if he or she ever files an application for licensure or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure.~~

~~Respondent may not apply for any license, permit, or registration from the board for three (3) years from the effective date of this decision. Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true, correct and admitted by respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new license. Respondent is required to report this surrender as disciplinary action.~~

~~Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$ _____ within _____ days of the effective date of this decision.~~

~~**Option:** Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, investigation and prosecution costs in the amount of \$_____ shall be paid to the board prior to issuance of the license.~~

~~**Public Reprimand**~~

~~It is hereby ordered that a public reprimand be issued against pharmacy technician license, _____ . Respondent is required to report this reprimand as a disciplinary action.~~

~~**Adoption of Stipulation**~~

~~It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Office of the Attorney General. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.~~

STANDARD CONDITIONS — To be included in all probation decisions/orders.

1. — Certification Prior to Resuming Work
2. — Obey All Laws
3. — Report to the Board
4. — Interview with the Board
5. — Cooperate with Board Staff
6. — Notice to Employers
7. — Reimbursement of Board Costs
8. — Probation Monitoring Costs
9. — Status of License
10. — License Surrender While on Probation/Suspension
11. — Notification of a Change in Name, Residence Address, Mailing Address or Employment
12. — Tolling of Probation
13. — Violation of Probation
14. — Completion of Probation

OPTIONAL CONDITIONS

15. — No Ownership of Licensed Premises
16. — Attend Substance Abuse Recovery Relapse Prevention and Support Groups
17. — Random Drug Screening
18. — Work Site Monitor
19. — Notification of Departure
20. — Abstain from Drugs and Alcohol Use
21. — Tolling of Suspension
22. — Restitution

STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS

1.——Certification Prior to Resuming Work

~~Respondent shall be automatically suspended from working as a pharmacy technician until he or she is certified as defined by Business and Professions Code section 4202(a)(4) and provides satisfactory proof of certification to the board. Respondent shall not resume working as a pharmacy technician until notified by the board. Failure to achieve certification within one (1) year shall be considered a violation of probation. Respondent shall not resume working as a pharmacy technician until notified by the board.~~

~~During suspension, respondent shall not enter any pharmacy area or any portion of any other board licensed premises (wholesaler, veterinary food animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not resume work until notified by the board.~~

~~Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises by the board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.~~

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

2.——Obey All Laws

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

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

- ~~▪ an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws~~
- ~~▪ a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment~~
- ~~▪ a conviction of any crime~~
- ~~▪ discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's _____ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.~~

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

3.——Report to the Board

~~Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports~~

~~in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.~~

~~4. Interview with the Board~~

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

~~5. Cooperate with Board Staff~~

~~Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to cooperate shall be considered a violation of probation.~~

~~6. Notice to Employers~~

~~During the period of probation, respondent shall notify all present and prospective employers of the decision in case number _____ and the terms, conditions and restrictions imposed on respondent by the decision, as follows:~~

~~Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number _____ and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.~~

~~If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his or her direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in case number _____ in advance of the respondent commencing work at each pharmacy. A record of this notification must be provided to the board upon request.~~

~~Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his or her direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number _____ and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.~~

~~Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation.~~

~~"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician license is a requirement or criterion for employment, whether the respondent is considered an employee, independent contractor or volunteer.~~

7. — Reimbursement of Board Costs

~~As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ _____. Respondent shall make said payments as follows: _____. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.~~

~~The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.~~

8. — Probation Monitoring Costs

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

9. — Status of License

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

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

10. — License Surrender While on Probation/Suspension

~~Following the effective date of this decision, should respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her pharmacy technician license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.~~

~~Upon acceptance of the surrender, respondent shall relinquish his or her pharmacy technician license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. Respondent shall meet all~~

requirements applicable to the license sought as of the date the application for that license is submitted to the board.

11. ~~Notification of a Change in Name, Residence Address, Mailing Address or Employment~~

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

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

12. ~~Tolling of Probation~~

~~Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of _____ hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.~~

~~Should respondent, regardless of residency, for any reason (including vacation) cease working as a pharmacy technician for a minimum of _____ hours per calendar month in California, respondent must notify the board in writing within ten (10) days of cessation of work and must further notify the board in writing within ten (10) days of the resumption of the work. Any failure to provide such notification(s) shall be considered a violation of probation.~~

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

~~"Cessation of work" means calendar month during which respondent is not working for at least _____ hours as a pharmacy technician, as defined in Business and Professions Code section 4115. "Resumption of work" means any calendar month during which respondent is working as a pharmacy technician for at least _____ hours as a pharmacy technician as defined by Business and Professions Code section 4115.~~

13. ~~Violation of Probation~~

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

~~If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a~~

violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

14. — Completion of Probation

Upon written notice by the board indicating successful completion of probation, respondent's pharmacy technician license will be fully restored.

OPTIONAL CONDITIONS OF PROBATION

15. — No Ownership of Licensed Premises

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

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

16. — Attend Substance Abuse Recovery Relapse Prevention and Support Groups (Appropriate for those cases with chemical dependency (alcohol, drugs))

Within thirty (30) days of the effective date of this decision, respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent must attend at least one group meeting per week unless otherwise directed by the board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

17. — Random Drug Screening (Appropriate for those cases with chemical dependency (alcohol, drugs))

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be

determined by the board or its designee. At all times respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension of work by respondent. Respondent may not resume work as a pharmacy technician until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of or any other board licensed premises (wholesaler, veterinary food animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not resume work until notified by the board.

Respondent shall not direct, control or perform any aspect of the practice of pharmacy. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

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

18. — Work Site Monitor (Appropriate for those cases with chemical dependency (alcohol, drugs))

Within ten (10) days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board, who shall be responsible for supervising respondent during working hours. Respondent shall be responsible for ensuring that the work site monitor reports in writing to the board quarterly. Should the designated work site monitor determine at any time during the probationary period that respondent has not maintained sobriety, he or she shall notify the board immediately, either orally or in writing as directed. Should respondent change employment, a new work site monitor must be designated, for prior approval by the board, within ten (10) days of commencing new employment. Failure to identify an acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be considered a violation of probation.

19. — Notification of Departure (Appropriate for those cases with chemical dependency (alcohol, drugs))

Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

20. — ~~Abstain from Drugs and Alcohol Use~~ (Appropriate for those cases with chemical dependency (alcohol, drugs))

~~Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.~~

21. — ~~Tolling of Suspension~~

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

~~Respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not return to work until notified by the board that the period of suspension has been satisfactorily completed.~~

22. — ~~Restitution~~ (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

~~Within _____ days of the effective date of this decision, respondent shall pay restitution to _____ in the amount of \$ _____. Failure to make restitution by this deadline shall be considered a violation of probation.~~

DESIGNATED REPRESENTATIVE

The board files cases against designated representatives where the violation(s) involve significant misconduct on the part of the licensee. The board believes that revocation is typically the appropriate penalty when grounds for discipline are found to exist. Grounds for discipline include, but are not limited to, the following violation(s) of law(s) involving:

- Possession of dangerous drugs and/or controlled substances
- Use of dangerous drugs and/or controlled substances
- Possession for sale of dangerous drugs and/or controlled substances
- Personal misuse of drugs or alcohol

If revocation is not imposed, the board recommends a minimum Category III level of discipline be imposed on the designated representative. This would include suspension and probation.

TERMS OF PROBATION – DESIGNATED REPRESENTATIVE⁹

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in all probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

CATEGORY OF VIOLATIONS AND RECOMMENDED PENALTIES

CATEGORY III – Penalty

— Minimum: Revocation; Revocation stayed, 90 days actual suspension, three years probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

— Maximum: Revocation

Applies to all applicable statutes and regulations

⁹ All information specific to Designated Representative is being removed and consolidated into Terms of Probation – Individual Licensees.

MODEL DISCIPLINARY LANGUAGE – DESIGNATED REPRESENTATIVE

The following standardized language shall be used in every decision where the order of condition is imposed.

Revocation

Designated Representative license number _____, issued to respondent _____ is revoked. Respondent shall relinquish his or her designated representative license to the board within ten (10) days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked designated representative license for three (3) years from the effective date of this decision.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ _____ within fifteen (15) days of the effective date of this decision.

Option: As a condition precedent to reinstatement of his or her revoked designated representative license respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$ _____. Said amount shall be paid in full prior to the reinstatement of his or her revoked designated representative license, unless otherwise ordered by the board.

Suspension

As part of probation, respondent is suspended from working as a designated representative for _____ beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs licensed by the board, or any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not perform any of the duties of a designated representative, nor do any act involving drug selection, selection of stock, manufacturing, dispensing; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices and controlled substances. Respondent shall not resume work until notified by the board.

Respondent shall not direct, control or perform any aspect involving the distribution of dangerous drugs and devices and controlled substances. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed entity in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

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

Standard Stay/Probation Order

Designated representative license number _____ is revoked; however, the revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Issuance of Probationary License (In cases where a Statement of Issues has been filed.)

Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to respondent and immediately revoked; the order of revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Surrender

Respondent surrenders designated representative license number _____ as of the effective date of this decision. Respondent shall relinquish his or her designated representative license to the board within ten (10) days of the effective date of this decision.

The surrender of respondent's license and the acceptance of the surrendered license by the board shall constitute the imposition of discipline against respondent. This decision constitutes a record of discipline and shall become a part of respondent's license history with the board.

Respondent understands and agrees that if he or she ever files an application for licensure or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure.

Respondent may not apply for any license, permit or registration from the board for three (3) years from the effective date of this decision. Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true, correct and admitted by respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board prior to issuance of a new license. Respondent is required to report this surrender as disciplinary action.

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$ _____ within _____ days of the effective date of this decision.

Option: Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, investigation and prosecution costs in the amount of \$ _____ shall be paid to the board prior to issuance of the new license.

Public Reprimand

It is hereby ordered that a public reprimand be issued against designated representative license, _____. Respondent is required to report this reprimand as a disciplinary action.

Adoption of Stipulation

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Office of the Attorney General. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

STANDARD CONDITIONS — To be included in all probation decisions/orders.

1. — Obey All Laws
2. — Report to the Board
3. — Interview with the Board
4. — Cooperate with Board Staff
5. — Notice to Employers
6. — No Being Designated Representative-in-Charge
7. — Reimbursement of Board Costs
8. — Probation Monitoring Costs
9. — Status of License
10. — License Surrender While on Probation/Suspension
11. — Notification of a Change in Name, Residence Address, Mailing Address or Employment
12. — Tolling of Probation
13. — Violation of Probation
14. — Completion of Probation

OPTIONAL CONDITIONS

15. — No Ownership of Licensed Premises
16. — Attend Substance Abuse Recovery Relapse Prevention and Support Groups
17. — Random Drug Screening
18. — Work Site Monitor
19. — Notification of Departure
20. — Abstain from Drugs and Alcohol Use
21. — Tolling of Suspension
22. — Restitution

STANDARD CONDITIONS - TO BE INCLUDED IN ALL PROBATIONS

1. ~~Obey All Laws~~

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

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

- ~~▪ an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws~~
- ~~▪ an arrest or issuance of a criminal complaint for violation of any state or federal law~~
- ~~▪ a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment~~
- ~~▪ a conviction of any crime~~
- ~~▪ discipline, citation, or other administrative action filed by any state or 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 of any drug, device or controlled substance.~~

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

2. ~~Report to the Board~~

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

3. ~~Interview with the Board~~

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

4. ~~Cooperate with Board Staff~~

~~Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to cooperate shall be considered a violation of probation.~~

5. ~~Notice to Employers~~

~~During the period of probation, respondent shall notify all present and prospective employers of the decision in case number _____ and the terms, conditions and restrictions imposed on respondent by the decision, as follows:~~

~~Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, designated representative in-charge (including each new designated representative in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number _____ and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.~~

~~If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his or her direct supervisor, designated representative in-charge and owner at each entity licensed by the board of the terms and conditions of the decision in case number _____ in advance of the respondent commencing work at each licensed entity. A record of this notification must be provided to the board upon request.~~

~~Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his or her direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number _____ and the terms and conditions imposed thereby. It shall be the respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.~~

~~Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation.~~

~~"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a designated representative or in any position for which a designated representative license is a requirement or criterion for employment, whether the respondent is considered an employee or independent contractor or volunteer.~~

6. ~~No Being Designated Representative in-Charge~~

~~During the period of probation, respondent shall not be the designated representative in-charge of any entity licensed by the board unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.~~

7. ~~Reimbursement of Board Costs~~

~~As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$_____. Respondent shall make said payments as follows: _____. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.~~

The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.

8. ~~Probation Monitoring Costs~~

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

9. ~~Status of License~~

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

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

10. ~~License Surrender While on Probation/Suspension~~

~~Following the effective date of this decision, should respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her designated representative license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.~~

~~Upon acceptance of the surrender, respondent shall relinquish his or her designated representative license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.~~

11. ~~Notification of a Change in Name, Residence Address, Mailing Address or Employment~~

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

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

12. Tolling of Probation

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

Should respondent, regardless of residency, for any reason (including vacation) cease working as a designated representative for a minimum of _____ hours in California, respondent must notify the board in writing within ten (10) days of cessation of work and must further notify the board in writing within ten (10) days of the resumption of work. Any failure to provide such notification(s) shall be considered a violation of probation.

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

"Cessation of work" means any calendar month during which respondent is not working as a designated representative for at least _____ hours as a designated representative as defined by Business and Professions Code section 4053.

"Resumption of work" means any calendar month during which respondent is working as a designated representative for at least _____ hours as a designated representative as defined by Business and Professions Code section 4053.

13. Violation of Probation

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

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended, until the petition to revoke probation or accusation is heard and decided.

14. Completion of Probation

Upon written notice by the board indicating successful completion of probation, respondent's designated representative license will be fully restored.

OPTIONAL CONDITIONS OF PROBATION

15. ~~No Ownership of Licensed Premises~~

~~Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.~~

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

16. ~~Attend Substance Abuse Recovery Relapse Prevention and Support Groups~~ (Appropriate for those cases with chemical dependency (alcohol, drugs))

~~Within thirty (30) days of the effective date of this decision, respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent must attend at least one group meeting per week unless otherwise directed by the board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.~~

17. ~~Random Drug Screening~~ (Appropriate for those cases with chemical dependency (alcohol, drugs))

~~Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee. At all times respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result~~

~~in the automatic suspension of work by respondent. Respondent may not resume work as a designated representative until notified by the board in writing.~~

~~During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food animal drug retailer or any other distributor of drugs licensed by the board, or any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not perform any of the duties of a designated representative, nor do any act involving drug selection, selection of stock, manufacturing, dispensing; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices and controlled substances. Respondent shall not resume work until notified by the board.~~

~~Respondent shall not direct, control or perform any aspect involving the distribution of dangerous drugs and devices and controlled substances. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed entity in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.~~

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

~~**18. Work Site Monitor** (Appropriate for those cases with chemical dependency (alcohol, drugs))~~

~~Within ten (10) days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board, who shall be responsible for supervising respondent during working hours. Respondent shall be responsible for ensuring that the work site monitor reports in writing to the board quarterly. Should the designated work site monitor determine at any time during the probationary period that respondent has not maintained sobriety, he or she shall notify the board immediately, either orally or in writing as directed. Should respondent change employment, a new work site monitor must be designated, for prior approval by the board, within ten (10) days of commencing new employment. Failure to identify an acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be considered a violation of probation.~~

~~**19. Notification of Departure** (Appropriate for those cases with chemical dependency (alcohol, drugs))~~

~~Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.~~

~~**20. Abstain from Drugs and Alcohol Use** (Appropriate for those cases with chemical dependency (alcohol, drugs))~~

~~Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of~~

~~the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.~~

21. — Tolling of Suspension

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

~~Respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not resume work until notified by the board that the period of suspension has been satisfactorily completed.~~

22. — Restitution (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

~~Within _____ days of the effective date of this decision, respondent shall pay restitution to _____ in the amount of \$ _____. Failure to make restitution by this deadline shall be considered a violation of probation.~~

TERMS OF PROBATION – PREMISES

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of dangerous drugs or devices or controlled substances has occurred at a licensed premises. Terms and conditions are imposed to provide consumer protection. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in all probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

CATEGORIES OF VIOLATIONS AND RECOMMENDED PENALTIES

The California Pharmacy Law identifies offenses for which the board may take disciplinary action against a license. Included among grounds for discipline are violations of the Pharmacy Law itself, violations of regulations promulgated by the board, and violations of other state or federal statutes or regulations.

~~The following are categories of possible violations used by the board to determine appropriate disciplinary penalties. These categories represent the judgment of the board as to the perceived seriousness of particular offenses.~~

For those licenses issued to premises (pharmacies and wholesalers, resident and nonresident), the board has identified four (4) categories of violations and associated recommended minimum and maximum penalties for each. These categories of violations are arranged in ascending order from the relatively minor (Category I) to the most serious (Category IV), although any violation in any category, or any combination of violation(s) in one or more categories, may merit revocation.

~~Under each category, the board has grouped statutes and regulations where violations would typically merit the recommended range of minimum to maximum penalties for that category. These lists are representative, and are not intended to be comprehensive or exclusive. For each violation category, the board has given offense descriptions and examples where violations would typically merit the recommended range of minimum to maximum penalties for that category. These descriptions and examples are representative, and are not intended to be comprehensive or exclusive.~~ Where a violation not included in these lists is a basis for disciplinary action, the appropriate penalty for that violation may be best derived by comparison to any analogous violation(s) that are included. Where no such analogous violation is listed, the category descriptions may be consulted.

These categories assume a single violation of each listed statute or regulation. For multiple violations, the appropriate penalty shall increase accordingly. Moreover, if an individual has committed violations in more than one category, the minimum and maximum penalties shall be those recommended in the highest category.

The board also has the authority, pursuant to Business and Professions Code section 4301(n), to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the board will depend on the discipline imposed by the other jurisdiction, the extent of the respondent's compliance with the terms of that discipline, the nature of the conduct for which the discipline was imposed, and other factors set forth in these guidelines.

CATEGORY I

Minimum: Revocation; Revocation stayed; one-year probation. All standard terms and conditions shall be included and may include optional terms and conditions, as appropriate.

Maximum: Revocation

Category I discipline is recommended for violations which are relatively minor but are potentially harmful:

- violation(s) of recordkeeping requirements, scope of practice requirements, or inventory control requirements;
- smaller or isolated failure(s) to abide by or enforce prescription or refill requirements, drug-substitution requirements, or labeling requirements;
- violation(s) of obligations to supply or update information to the board, or to other enforcement or regulatory agencies;
- failure(s) to adequately supervise staff to ensure security and sanitation of premises, dangerous drugs or devices or controlled substances;
- violation(s) of packaging requirements, security control requirements, or reporting requirements; and
- failure(s) to display original license(s), or to supply name(s) of owner(s), manager(s), or employee(s).
- ~~violations which are relatively minor but are potentially harmful~~
- ~~repeated violations of a relatively minor nature~~

~~Violations of the following codes are representative of this category:~~

BUSINESS AND PROFESSIONS CODE

Article 3. Scope of Practice and Exemptions

- ~~4053 — Exemptee Supervisor of Manufacturer, etc.: Requirements~~
- ~~4054 — Supply by Manufacturer, etc. of Certain Dialysis Drugs and Devices~~
- ~~4056 — Purchase of Drugs at Wholesale — Hospital Containing 100 Beds or Less~~
- ~~4057 — Exceptions to Application of this Chapter~~
- ~~4058 — Display of Original License~~
- ~~4062 — Furnishing Dangerous Drugs During Emergency~~
- ~~4064 — Emergency Refill of Prescription Without Prescriber Authorization~~
- ~~4065 — Injection Card System; Requirements for Administration~~
- ~~4066 — Furnishing Dangerous Drugs to Master or First Officer of Vessel~~

Article 4. Requirements for Prescription

- 4070 — Reduction of Oral or Electronic Prescription to Writing
- 4071 — Prescriber May Authorize Agent to Transmit Prescription; Schedule II Excluded
- 4072 — Oral or Electronic Transmission of Prescription – Health Care Facility
- 4073 — Substitution of Generic Drug – Requirements and Exceptions
- 4074 — Drug Risk: Informing Patient; Providing Consultation for Discharge Medications
- 4076 — Prescription Container - Requirements for Labeling
- 4077 — Dispensing Dangerous Drug in Incorrectly Labeled Container

Article 5. Authority of Inspectors

- 4082 — Names of Owners, Managers and Employees Open for Inspection

Article 6. General Requirements

- 4100 — Change of Address or Name — Notification to Board
- 4103 — Blood Pressure – Taking by Pharmacist

Article 7. Pharmacies

- 4114 — Intern Pharmacist: Activities Permitted
- 4119.5 — Transfer or Repackaging Dangerous Drugs by Pharmacy
- 4120 — Nonresident Pharmacy: Registration Required
- 4121 — Advertisement for Prescription Drug: Requirements; Restrictions
- 4122 — Required Notice at Availability of Prescription Price Information, General Product Availability, Pharmacy Services; Providing Drug Price Information; Limitations on Price Information Requests
- 4123 — Compounding Drug for Other Pharmacy for Parenteral Therapy; Notice to Board
- 4124 — Dispensing Replacement Contact Lenses: Requirements; Patient Warnings; Registration with Medical Board; Application of Section to Nonresident Pharmacies

Article 9. Hypodermic Needles and Syringes

- 4141 — Furnishing Without License
- 4142 — Prescription Required
- 4143 — Exemption: Sale to Other Entity, Physician, etc.
- 4144 — Industrial Use Exception
- 4145 — Exception: Furnishing for Administration of Insulin, Adrenaline, or Specified Animal Uses; Conditions
- 4148 — Confiscation if Found Outside Licensed Premises
- 4149 — Sale by Distributor

Article 10. Pharmacy Corporations

- 4151 — Licensure Requirements
- 4152 — Corporate Name Requirements
- 4153 — Shareholder Income While Disqualified
- 4156 — Unprofessional Conduct by Corporation

Article 11. Wholesalers and Manufacturers

- 4161 — Nonresident Wholesaler: When License Required; Application
- 4162 — Issuance or Renewal of Wholesaler License; Surety Bond
- 4164 — Reports Required
- 4165 — Sale or Transfer of Dangerous Drug or Device Into State: Furnishing Records to Authorized Officer on Demand; Citation for Non-compliance
- 4166 — Shipping of Dangerous Drugs or Devices — Wholesaler or Distributor
- 4167 — Wholesaler: Bar on Obtaining Dangerous Drugs or Devices It Cannot Maintain on Licensed Premises

Article 13. Non-Profit or Free Clinics

- 4180 — Purchase of Drugs at Wholesale Only with License: Eligible Clinics
- 4181 — License Requirements; Policies and Procedures; Who May Dispense
- 4182 — Duties of Professional Director; Consulting Pharmacist Required
- 4183 — No Professional Dispensing Fee
- 4184 — Dispensing Schedule II Substance Prohibited
- 4186 — Automated Drug Delivery Systems

Article 14. Surgical Clinics

- 4190 — Purchase of Drugs at Wholesale: Permitted Uses of Drugs; Required Records and Policies; License Required
- 4191 — Compliance with Department of Health Services Requirements; Who May Dispense Drugs
- 4192 — Duties of Professional Director; Providing Information to Board
- 4193 — Clinic Not Eligible for Professional Dispensing Fee; Ban on Offering Drugs for Sale
- 4194 — Dispensing of Schedule II Substance by Clinic Prohibited; Physician May Dispense; Administration Authorized in Clinic

Article 15. Veterinary Food-Animal Drug Retailers

- 4196 — License Required: Temporary License on Transfer of Ownership; Persons Authorized in Storage Area
- 4197 — Minimum Standards: Security; Sanitation; Board Regulations; Waivers
- 4198 — Written Policies and Procedures Required: Contents; Training of Personnel; Quality Assurance; Consulting Pharmacist

Article 17. Continuing Education

- 4231 — Requirements for Renewal of Pharmacist License: Clock Hours; Exemption for New Licensee
- 4232 — Content of Courses

Article 18. Poisons

- 4240 — Application of Act

Article 20. Prohibitions and Offenses

- 4341 — Advertisement of Prescription Drugs or Devices
- 4343 — Buildings: Prohibition Against Use of Certain Signs Unless Licensed Pharmacy Within

CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1704 — Change of Address
- 1705 — Notification of Bankruptcy, Receivership or Liquidation
- 1708.2 — Discontinuance of Business
- 1708.4 — Pharmacist Handling Radioactive Drugs
- 1708.5 — Pharmacy Furnishing Radioactive Drugs
- 1709 — Names of Owners and Pharmacist in Charge
- 1714 — Operational Standards and Security
- 1715.6 — Reporting Drug Loss
- 1716 — Variation from Prescriptions
- 1717 — Pharmaceutical Practice
 - 1717.1 — Common Electronic Files
 - 1717.4 — Electronic Transmission of Prescriptions
- 1718.1 — Manufacturer's Expiration Date
- 1726 — Supervision of Intern Pharmacists
- 1728 — Requirements for Examination
 - 1732.1 — Requirements for Accredited Providers
 - 1732.3 — Requirements for Continuing Education Courses
 - 1732.4 — Provider Audit Requirements
 - 1732.5 — Renewal Requirements for Pharmacist
- 1744 — Drug Warnings
- 1751 — Sterile Injectable Compounding Area
 - 1751.01 — Facility and Equipment Standards for Sterile Injectable Compounding from Non-Sterile Ingredients
 - 1751.02 — Policies and Procedures
 - 1751.11 — Furnishing to Home Health Agencies and Licensed Hospices
 - 1751.12 — Obligations of a Pharmacy Furnishing Portable Containers
- 1771 — Posting of Notice of Suspension
- 1772 — Disciplinary Condition of Suspension
- 1780 — Minimum Standards for Wholesalers
 - 1780.1 — Minimum Standards for Veterinary Food-Animal Drug Retailers
- 1781 — Exemption Certificate
- 1786 — Exemptions
- 1787 — Authorization to Distribute Hemodialysis Drugs and Devices
- 1790 — Assembling and Packaging
- 1791 — Labeling
- 1792 — Receipt for Shipment

HEALTH AND SAFETY CODE

- 11100 — Report of Certain Chemical: Chemicals Included; Exclusions; Penalties
 - 11100.1 — Report of Chemicals Received from Outside State; Penalties
- 11151 — Limitation on Filling Prescriptions From Medical Students

- 11158 — Prescription Required for Schedule II, III, IV, or V Controlled Substance; Exception for Limited Dispensing, Administration
- 11159 — Chart Order Exemption for Patient in County or Licensed Hospital; Maintaining Record for Seven Years
- 11159.1 — Chart Order Exemption for Clinic Patient; Maintaining Record for Seven Years
- 11159.2 — Exception to Triplicate Prescription Requirement
- 11167 — Emergency Dispensing of Schedule II Substance: Circumstances and Requirements
- 11167.5 — Oral or Electronic Prescriptions for Schedule II Controlled Substance for Specified Inpatients, Residents, and Home Hospice Patients; Requirements
- 11171 — Prescribing, etc. Controlled Substance Only as Authorized
- 11172 — Antedating or Postdating Prescription Prohibited
- 11175 — Prohibition on Obtaining or Possessing Nonconforming Prescription; Prohibition on Obtaining Controlled Substance by Nonconforming Prescription
- 11180 — Prohibition on Controlled Substance Obtained or Possessed by Nonconforming Prescription
- 11200 — Restrictions on Dispensing or Refilling; Refill of Schedule II Prescription Barred
- 11201 — Emergency Refill of Schedule III, IV, or V Prescription; Circumstances; Requirements
- 11205 — Maintenance and Retention of Records in Separate File
- 11206 — Required Information on Prescription
- 11209 — Delivery and Receiving Requirements for Schedule II, III, and IV Substances; Violation
- 11210 — Issuing Prescription: By Whom; For What Purpose; Quantity to Be Prescribed
- 11250 — Authorized Retail Sale by Pharmacists to Physicians, etc.; Required Order Form
- 11251 — Authorized Wholesale Sale by Pharmacists
- 11252 — Preservation of Federally Required Forms
- 11253 — Duration of Retention
- 11255 — Actions Constituting Sale
- 11256 — Required Report of Order By or Sale to Out-of-State Wholesaler or Manufacturer
- 111225 to
- 111655 — Adulterated or Misbranded Drugs or Devices

CODE OF FEDERAL REGULATIONS, TITLE 21

- 1301.13 — Application for registration; time for application; expiration date; registration for independent activities; application forms, fees, contents and signature; coincident activities.
- 1301.14 — Filing of application; acceptance for filing; defective applications.
- 1301.71 — Security requirements generally.
- 1301.72 — Physical security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs; storage areas.
- 1301.73 — Physical security controls for non-practitioners; compounders for narcotic treatment programs; manufacturing and compounding areas.
- 1301.74 — Other security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs.
- 1301.77 — Security controls for freight forwarding facilities.
- 1301.90 — Employee screening procedures.
- 1301.91 — Employee responsibility to report drug diversion.
- 1301.92 — Illicit activities by employees.
- 1302.03 — Symbol required; exceptions.

- ~~1302.04 — Location and size of symbol on label and labeling.~~
- ~~1302.05 — Effective dates of labeling requirements.~~
- ~~1302.06 — Sealing of controlled substances.~~
- ~~1302.07 — Labeling and packaging requirements for imported and exported substances.~~
- ~~1304.11 — Inventory requirements.~~
- ~~1304.31 — Reports from manufacturers importing narcotic raw material.~~
- ~~1304.32 — Reports of manufacturers importing coca leaves.~~
- ~~1304.33 — Reports to ARCOS.~~
- ~~1305.03 — Distributions requiring a Form 222 or a digitally signed electronic order.~~
- ~~1305.04 — Persons entitled to order Schedule I and II controlled substances.~~
- ~~1305.05 — Power of attorney.~~
- ~~1305.06 — Persons entitled to fill orders for Schedule I and II controlled substances.~~
- ~~1305.11 — Procedure for obtaining DEA Forms 222.~~
- ~~1305.12 — Procedure for executing DEA Forms 222.~~
- ~~1305.14 — Procedure for endorsing DEA Forms 222.~~
- ~~1305.15 — Unaccepted and defective DEA Forms 222.~~
- ~~1305.16 — Lost and stolen DEA Forms 222.~~
- ~~1306.03 — Persons entitled to issue prescriptions.~~
- ~~1306.05 — Manner of issuance of prescriptions.~~
- ~~1306.14 — Labeling of substances and filling of prescriptions.~~
- ~~1306.24 — Labeling of substances and filing of prescriptions.~~
- ~~1306.25 — Transfer between pharmacies of prescription information for Schedules III, IV, and V controlled substances for refill purposes.~~
- ~~1306.26 — Dispensing without a prescription.~~
- ~~1307.11 — Distribution by dispenser to another practitioner or reverse distributor.~~
- ~~1307.12 — Distribution to supplier or manufacturer.~~
- ~~1307.13 — Incidental manufacture of controlled substances.~~
- ~~1307.21 — Procedure for disposing of controlled substances.~~
- ~~1700.1 to~~
- ~~1707.15 — Child-resistant containers.~~

CATEGORY II

Minimum: Revocation; Revocation stayed, three years probation (five years probation where self-administration or diversion of dangerous drugs or devices or controlled substances occurred at the licensed premises). All standard terms and conditions shall be included and may include optional terms and conditions, as appropriate.

Maximum: Revocation

Category II discipline is recommended for violations with serious potential for harm, as well as for violations involving disregard for public safety or for laws or regulations pertaining to pharmacy and/or to the dispensing or distributing of dangerous drugs or devices or controlled substances, violations that reflect on ethics, competency, or diligence, and criminal convictions not involving alcohol, dangerous drugs or devices or controlled substances. Violations in this category may include:

- failure(s) to abide by prohibitions on referral rebates or discounts (kickbacks) and/or volume or percentage-based lease agreements;

- violation(s) of advertising or marketing limitations, including use of false or misleading advertising or marketing;
- repeat or serious violation(s) of recordkeeping requirements, scope of practice requirements, or inventory control requirements;
- violation(s) of controlled substance secure prescription requirements, inventory controls, or security requirements;
- failure(s) to meet compliance requirements, including pharmacist-in-charge or designated representative-in-charge designation and duties;
- violation(s) of monitoring and reporting requirements with regard to chemically, mentally, or physically impaired licensees or employees;
- repeat or serious failure(s) to adequately supervise staff or ensure security and sanitation of premises, dangerous drugs or devices or controlled substances;
- violation(s) of laws governing dangerous drugs or devices and controlled substances, including smaller cases of diversion or self-administration;
- unlawful possession(s) of dangerous drugs or devices, controlled substances, hypodermic needles or syringes, or drug paraphernalia;
- smaller scale dispensing or furnishing of dangerous drugs or devices via the internet, without valid a prescription;
- purchasing, trading, selling, or transferring dangerous drugs or devices to or from unauthorized person(s);
- failure(s) to make required reports to the board or to other regulatory agencies, including CURES obligations and reporting to the DEA;
- violation(s) of quality assurance and self-assessment obligations, failure(s) to ensure properly trained staff and conduct practice safely;
- failure(s) to perform drug utilization reviews, monitor patient medication profiles, or promote safety and efficacy of prescribed drugs or devices or controlled substances;
- repeat or serious deviation(s) from the requirements of prescription(s) or failure(s) to clarify erroneous or uncertain prescription(s);
- gross immorality, incompetence, gross negligence, clearly excessive furnishing of controlled substances, moral turpitude, dishonestly, or fraud;
- criminal conviction(s) not involving alcohol, dangerous drugs or devices or controlled substances;
- violating, assisting in or abetting violation of, or conspiring to violate the laws and regulations governing pharmacy; and
- subverting or attempting to subvert an investigation conducted by the board.
- ~~violations with a serious potential for harm~~
- ~~violations which involve greater disregard for pharmacy law and public safety~~
- ~~violations which reflect on ethics, care exercised or competence or a criminal conviction not involving dangerous drugs or controlled substances or involving possession or use of dangerous drugs or controlled substances.~~

Violations of the following codes are representative of this category:

~~BUSINESS AND PROFESSIONS CODE~~

- ~~650 — Rebates or Discounts for Referral Prohibited~~
- ~~650.1 — Lease Prohibition — Hospitals or Prescribers~~
- ~~651 — Professional Advertising Requirements~~

~~Article 3. Scope of Practice and Exemptions~~

- ~~4051(b) — Conduct Authorized by Pharmacist~~
- ~~4052 — Furnishing to Prescriber; Permissible Procedures by Pharmacist in Health Care Facility or Clinic or for Other Health Care Provider~~
- ~~4060 — Controlled Substance — Prescription Required; Exceptions~~
- ~~4061 — Distribution of Drug as Sample; Written Request Required~~
- ~~4064 — Emergency Refill of Prescription Without Prescriber Authorization~~
- ~~4067 — Internet; Dispensing Dangerous Drugs or Devices without Prescription~~
- ~~4075 — Proof of Identity Required — Oral or Electronic Prescription~~
- ~~4078 — False or Misleading Label on Prescription~~

Article 6. General Requirements

- ~~4101 — Pharmacist in Charge, Exemptee: Termination of Employment; Notification to Board~~
- ~~4104 — Licensed Employee, Theft or Impairment: Pharmacy Procedures~~
- ~~4105 — Retaining Records of Dangerous Drugs and Devices on Licensed Premises; Temporary Removal; Waivers; Access to Electronically Maintained Records~~

Article 7. Pharmacies

- ~~4112 — Nonresident Pharmacy: Registration; Provision of Information to Board; Maintaining Records; Patient Consultation~~
- ~~4113 — Pharmacist in Charge: Notification to Board; Responsibilities~~
- ~~4115 — Pharmacy Technician: Activities Permitted; Required Supervision; Activities Limited to Pharmacist; Registration; Requirements for Registration; Ratios~~
- ~~4115.5 — Pharmacy Technician Trainee; Placement; Supervision; Requirements~~
- ~~4116 — Security of Dangerous Drugs and Devices in Pharmacy: Pharmacist Responsibility for Individuals on Premises; Regulations~~
- ~~4117 — Admission to Area Where Narcotics are Stored, etc. — Who May Enter~~
- ~~4120 — Nonresident Pharmacy: Registration Required~~
- ~~4125 — Pharmacy Quality Assurance Program Required; Records Considered Peer Review Documents~~

Article 9. Hypodermic Needle and Syringes

- ~~4140 — Unlawful Possession~~
- ~~4147 — Disposal of Needle or Syringe~~

Article 11. Wholesalers and Manufacturers

- ~~4161 — Nonresident Wholesaler: When License Required; Application~~
- ~~4163 — Unauthorized Furnishing by Manufacturer or Wholesale~~
- ~~4164 — Reports Required~~
- ~~4169(a)(1) Prohibited Acts~~

Article 13. Non-Profit or Free Clinics

- ~~4185 — Inspection Permitted~~

Article 14. Surgical Clinics

- ~~4195 — Inspection Permitted~~

Article 19. Disciplinary Proceedings

- 4301 — Unprofessional Conduct — subsections (a)-(h), (j), and (l) — (q)
- 4302 — Discipline of Corporate Licensee for Conduct of Officer, Director, Shareholder
- 4303 — Nonresident Pharmacy: Grounds for Discipline
- 4304 — Out-of-state Distributor: Authority to Discipline
- 4305 — Disciplinary Grounds: Failure of Pharmacy, Pharmacist to Notify Board of Termination of Pharmacist in Charge; Continuing to Operate Without Pharmacist
- 4305.5 — Disciplinary Grounds: Failure of Other Entity Licensed by Board, of Pharmacist or Exemptee to Notify Board of Termination of Pharmacist in Charge or Exemptee; Continuing to Operate Without Pharmacist or Exemptee
- 4306 — Violation of Professional Corporation Act as Unprofessional Conduct
- 4306.5 — Misuse of Education, etc. by Pharmacist Outside Course of Practice of Pharmacy as Unprofessional Conduct

Article 20. Prohibitions and Offenses

- 4326 — Misdemeanor: Obtaining Needle or Syringe by Fraud, etc.; Unlawful Use of Needle or Syringe Obtained from Another
- 4328 — Misdemeanor: Permitting Compounding, Dispensing, or Furnishing by Non-pharmacist
- 4330 — Misdemeanor: Non-pharmacist Owner Failing to Place Pharmacist in Charge, Dispensing or Compounding Except by Pharmacist, Interfering with Pharmacist in Charge
- 4331 — Misdemeanor: Medical Device Retailer, Wholesaler, Veterinary Food-Animal Drug Retailer Failing to Place Pharmacist or Exemptee in Charge, Permitting Dispensing or Compounding Except by Pharmacist or Exemptee
- 4333 — Maintaining Prescriptions, Other Drug Records on Premises, Open to Inspection; Waiver; Willful Failure to Keep or Permit Inspection of Records of Prescriptions, Other Records as Misdemeanor
- 4340 — Unlawful Advertising by Nonresident Pharmacy Not Registered with Board

Article 22. Unfair Trade Practices

- 4380 — Resale of Preferentially Priced Drugs; Prohibition; Exceptions
- 4382 — Board May Audit Sales to Walk-in Customers

CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1707.1 — Duty to Maintain Medication Profiles (Patient Medication Records)
- 1707.2 — Notice to Consumers and Duty to Consult
- 1707.3 — Duty to Review Drug Therapy and Patient Medication Record Prior to Deliver
- 1709.1 — Designation of Pharmacist in Charge
- 1714.1 — Pharmacy Operation During Temporary Absence of a Pharmacist
- 1715 — Self-Assessment of a Pharmacy by the Pharmacist in Charge
- 1715.5 — Implementation of Electronic Monitoring of Schedule II Prescriptions
- 1716.1 — Compounding Unapproved Drugs for Prescriber Office Use
- 1716.2 — Record Requirements Compounding for Future Furnishing
- 1717.2 — Notice of Electronic Prescription Files

- ~~1717.3 — Preprinted, Multiple Checkoff Prescription Blanks~~
- ~~1723.1 — Confidentiality of Examination Questions~~
- ~~1745 — Partial Filling of Schedule II Prescriptions~~
- ~~1751.10 — Furnishing to Parenteral Patient at Home~~
- ~~1761(a) — Erroneous or Uncertain Prescriptions~~
- ~~1764 — Unauthorized Disclosure of Prescriptions~~
- ~~1765 — Commissions, Gratuities, and Rebates~~
- ~~1766 — False or Misleading Advertising~~
- ~~1775.3 — Compliance with Orders of Abatement~~
- ~~1782 — Reporting Sales of Drugs Subject to Abuse~~
- ~~1783 — Manufacturer or Wholesaler Furnishing Drugs or Devices~~
- ~~1793.1 — Duties of a Pharmacist~~
- ~~1793.2 — Duties of a Pharmacy Technician~~
- ~~1793.3 — Other Non-Licensed Pharmacy Personnel~~
- ~~1793.4 — Qualifications for Registration as a Pharmacy Technician~~
- ~~1793.7 — Requirements for Pharmacies Employing Pharmacy Technicians~~
- ~~1793.8 — Technicians in Hospitals with Clinical Pharmacy Programs~~

HEALTH AND SAFETY CODE

- ~~11103 — Report of Theft, Loss, or Shipping Discrepancy~~
- ~~11150 — Persons Authorized to Write or Issue a Prescription~~
- ~~11152 — Nonconforming Prescriptions Prohibited~~
- ~~11154 — Prescription, etc. Must Be for Treatment; Knowing Soliciting of Unlawful Prescription, etc.~~
- ~~11156 — Prescribing, etc. Controlled Substances to Addict Only as Authorized~~
- ~~11164 — Prescriptions for Schedule II, III, IV and V Controlled Substance: Form and Content; Record of Practitioner Dispensing Schedule II Controlled Substance~~
- ~~11165(d) — CURES Transmission~~
- ~~11166 — Time Limit for Filling Schedule II Prescription; Knowingly Filling Mutilated, Forged, or Altered Prescription Prohibited~~
- ~~11170 — Prohibition on Prescribing, etc. Controlled Substance for Self~~
- ~~11179 — Retention of Controlled Substance Prescription~~
- ~~11207 — Only Pharmacist or Intern Authorized to Fill Prescription~~
- ~~11209 — Delivery and Receiving Requirements for Schedule II, III, and IV Substances; Violation~~
- ~~11350 — Possession of Specified Controlled Substance~~
- ~~11377 — Unlawful Possession of Specified Substance~~

CODE OF FEDERAL REGULATIONS, TITLE 21

- ~~1304.03 — Persons required to keep records and file reports.~~
- ~~1304.04 — Maintenance of records and inventories.~~
- ~~1304.11 — Inventory requirements.~~
- ~~1304.21 — General requirements for continuing records.~~
- ~~1304.22 — Records for manufacturers, distributors, dispensers, researchers, importers and exporters.~~
- ~~1305.07 — Special procedures for filling certain orders.~~
- ~~1305.13 — Procedure for filling DEA Forms 222.~~

- ~~1306.04 — Purpose of issue of prescription.~~
- ~~1306.06 — Persons entitled to fill prescriptions.~~
- ~~1306.11 — Requirement prescription.~~
- ~~1306.12 — Refilling prescriptions.~~
- ~~1306.13 — Partial filling of prescriptions.~~
- ~~1306.21 — Requirement of prescription.~~
- ~~1306.22 — Refilling of prescriptions.~~
- ~~1306.23 — Partial filling of prescriptions.~~

CATEGORY III

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three to five years probation (five years probation where self-administration or diversion of dangerous drugs or devices or controlled substances occurred at the licensed premises). All standard terms and conditions shall be included and may include optional terms and conditions, as appropriate.

Maximum: Revocation

Category III discipline is recommended for violations where potential for harm is greater, more imminent, or more serious than it is for Category II violations, as well as for violations that involve knowingly or willfully violating laws or regulations pertaining to pharmacy and/or to the dispensing or distributing of dangerous drugs or devices or controlled substances, and most criminal convictions involving alcohol, dangerous drugs or controlled substances. Violations in this category may include:

- violation(s) involving creation, manipulation, perpetuation, or disregard of drug shortages;
- failure(s) to deploy or abide by electronic pedigree requirements for dangerous drugs;
- violation(s) of licensee's corresponding responsibility to ensure the proper prescribing and dispensing of controlled substances;
- dispensing or furnishing without valid prescription, dispensing or furnishing to unauthorized person(s);
- violation(s) involving fraudulent acts committed in connection with the licensee's practice;
- repeat or serious unlawful possession(s) of dangerous drugs or dangerous devices, controlled substances, hypodermic needles or syringes, or drug paraphernalia;
- larger scale dispensing or furnishing of dangerous drug(s) or device(s) via the internet, without valid prescription(s);
- purchasing, trading, selling, or transferring adulterated, misbranded, or expired dangerous drug(s) or device(s);
- removal, sale, or disposal of embargoed dangerous drug(s) or device(s);
- failing to maintain record(s) of acquisition and disposition of dangerous drug(s) or device(s) or controlled substances
- resale(s) of preferentially priced drugs, contract bid diversion, or other instances of improper sale(s) or resale(s);
- repeat or serious violation(s) of quality assurance and self-assessment obligations, failure(s) to ensure properly trained staff and conduct practice safely;
- repeat or serious failure(s) to perform drug utilization reviews, monitor patient medication profiles, or promote safety and efficacy of prescribed drugs;

- forgery of prescriptions, passing of forged prescriptions, or other unlawful means of acquiring dangerous drug(s) or device(s) or controlled substances(s);
- repeat or serious acts violating, assisting in or abetting violation of, or conspiring to violate the laws and regulations governing pharmacy; and
- violation(s) involving providing or offering to provide controlled substance(s) to addict(s).
- ~~most criminal convictions involving dangerous drugs or controlled substances~~
- ~~knowing or willfully violating laws or regulations pertaining to dispensing or distributing dangerous drugs or controlled substances~~
- ~~fraudulent acts committed in connection with the licensee's practice~~
- ~~drug shortages~~
- ~~violation of a licensee's corresponding responsibility.~~

Violations of the following codes are representative of this category:

~~BUSINESS AND PROFESSIONS CODE~~

~~Article 3. Scope of Practice and Exemptions~~

~~4051(a) — Conduct Limited to Pharmacist~~

~~4059 — Furnishing Dangerous Drugs or Devices Prohibited Without Prescription: Exceptions~~

~~4059.5 — Who May Order Dangerous Drugs or Devices: Exceptions~~

~~Article 5. Authority of Inspectors~~

~~4080 — Stock of Dangerous Drugs and Devices Kept Open for Inspection~~

~~4081 — Records of Dangerous Drugs and Devices Kept Open for Inspection; Maintenance of Records, Current Inventory~~

~~4085(a) — Unlawful to Remove, Sell, Dispose of Embargoed Dangerous Drug or Dangerous Device~~

~~Article 7. Pharmacies~~

~~4110 — License Required; Temporary Permit Upon Transfer of Ownership~~

~~4111 — Restrictions on Prescriber Ownership~~

~~Article 11. Wholesalers and Manufacturers~~

~~4169(a)(2) to~~

~~4169(a)(5) — Prohibited Acts~~

~~Article 15. Veterinary Food-Animal Retailers~~

~~4199 — Labeling Requirements; Maintaining Prescription Records~~

~~Article 19. Disciplinary Proceedings~~

~~4301 — Unprofessional Conduct — subsections (i) — (k) and (o)~~

~~4307 — Prohibition of Association of Individual with Entity License by Board: Length of Prohibition; Individuals Covered; Imposition of Prohibition Through Administrative Act Proceeding~~

4308 — Prohibited Association: Notification of Affected Licensees Known to Board

Article 20. Prohibitions and Offenses

- 4322 — Misdemeanor or Infraction: False Representations to Secure License for Self or Others; False Representation of Licensure; Penalties
- 4323 — Misdemeanor: False Representation of Self as Physician, Agent of Physician, etc. to Obtain Drug
- 4324 — Felony or Misdemeanor: Forgery of Prescription; Possession of Drugs Obtained Through Forged Prescription
- 4325 — Misdemeanor: Manufacture, Possession, etc. of False Prescription Blank
- 4327 — Misdemeanor: Sale, Dispensing, or Compounding While Under the Influence of Drugs or Alcoholic Beverages
- 4329 — Misdemeanor: Non-pharmacist Acting as Manager, Compounding, Dispensing or Furnishing Drugs
- 4332 — Misdemeanor: Failure or Refusal to Maintain or Produce Required Drug or Device Records; Willful Production of False Records
- 4335 — Voided License: Knowing Failure to Arrange for Disposition of Stock as Misdemeanor
- 4336 — Felony: Knowing or Willful Use of Minor to Violate Specified Sections of Pharmacy Law: Exception for Pharmacist Furnishing Pursuant to a Prescription

Article 22. Unfair Trade Practices

4380 — Resale of Preferentially Priced Drugs: Prohibition; Exceptions

CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1718 — Current Inventory Defined
- 1761(b) — Erroneous or Uncertain Prescriptions
- 1771 — Posting of Notice of Suspension
- 1772 — Disciplinary Condition of Suspension
- 1773 — Disciplinary Conditions of Probation of Pharmacist
- 1774 — Disciplinary Conditions of Probation of Permit

HEALTH AND SAFETY CODE

- 11104 — Providing Chemical for Illicit Manufacturing; Evasion of Reporting Requirements; Penalties
- 11105 — False Statement in Report
- 11150 — Persons Authorized to Write or Issue a Prescription
- 11153 — Responsibility for Legitimacy of Prescription; Corresponding Responsibility of Pharmacist
- 11153.5 — Wholesaler or Manufacturer Furnishing Controlled Substance Other Than for Legitimate Medical Purpose; Knowing Violation; Factors in Assessing Legitimacy
- 11157 — No False or Fictitious Prescriptions
- 11162.5 — Counterfeiting or Possession of Counterfeit Triplicate Prescription Blank; Penalty
- 11167.5 — Pharmacy Generated Prescription for Schedule II Controlled Substance in a Skilled Nursing Facility

- ~~11173 — Fraud, Deceit, Misrepresentation or False Statement; False Representation; False Label~~
- ~~11174 — Prohibition on Providing False Name or Address in Connection with Prescription, etc.~~
- ~~11351 — Possession or Purchase for Sale of Specified Controlled Substance~~
- ~~11368 — Forged or Altered Prescriptions~~
- ~~11375 — Possession for Sale or Selling Specified Substance~~
- ~~11378 — Possession for Sale~~
- ~~11550 — Using or Being Under Influence of Controlled Substance~~
- ~~111295 — Manufacturing, Selling or Offering for Sale an Adulterated Drug or Device~~
- ~~111300 — Unlawful to Adulterate a Drug~~
- ~~111305 — Unlawful to Receive in Commerce an Adulterated Drug~~
- ~~111440 — Unlawful Manufacturer, selling a misbranded Drug~~
- ~~111445 — Unlawful for a Person to Misbrand~~
- ~~111450 — Unlawful to Receive into Commerce a Drug that is Misbranded~~

CATEGORY IV

Penalty: Revocation

Category IV discipline (Revocation revocation) is recommended for the most serious violations of the Uniform Controlled Substance Act (Heath and Safety Code 11000 et seq.) involving laws or regulations pertaining to pharmacy and/or to the dispensing or distributing of dangerous drugs or devices or controlled substances. Violations in this category may include:

- violation(s) involving possession for sale, transportation, importation, and/or use of a minor for unlawful acquisition of sale, of controlled substances;
- criminal conviction(s) involving the above, or repeat convictions involving diversion or abuse of alcohol, dangerous drugs or devices, or controlled substances; and
- repeat or serious example(s) of conduct described in Category I, Category II, or Category III.
- ~~possession for sale~~
- ~~transportation~~
- ~~importation~~
- ~~sale~~
- ~~use of a minor for the unlawful sale of controlled substances~~

Revocation is also recommended when where a respondent fails to file a notice of defense to an Accusation or to appear at a disciplinary hearing, where a respondent violates the terms and conditions of probation from a previous disciplinary order, or where prior discipline has been imposed on the license.:

- ~~a respondent fails to file a notice of defense or to appear at a disciplinary hearing where the board has requested revocation in the accusation~~
- ~~a respondent violates the terms and conditions of probation from a previous disciplinary order~~
- ~~prior discipline has been imposed, as progressive discipline unless the respondent can demonstrate satisfactory evidence of rehabilitation.~~

~~Violations of the following codes are representative of this category:~~

HEALTH AND SAFETY CODE

~~11352 — Importing, Selling, Furnishing Controlled Substance~~
~~11353 — Adult Inducing Minor to Violate Provisions~~
~~11379 — Transporting, Importing, Selling Controlled Substance~~
~~11380 — Adult Using, Soliciting or Intimidating Minor for Violation~~

MODEL DISCIPLINARY LANGUAGE - PREMISES

The following standardized language shall be used in every decision where the order or condition is imposed.

Revocation

License number _____, issued to respondent _____, is revoked.

Respondent ~~owner~~ shall, by the effective date of this decision, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the board of all dangerous drugs or devices or controlled substances and dangerous drugs and devices. Respondent ~~owner~~ shall provide written proof of such disposition, submit a completed Discontinuance of Business form and return the wall and renewal license to the board within five (5) days of disposition.

Option: Respondent ~~owner~~ shall also, by the effective date of this decision, arrange for the continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five (5) days of its provision to the pharmacy's ongoing patients, Respondent ~~owner~~ shall provide a copy of the written notice to the board. For the purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60) days.

Suspension

License number _____, issued to respondent _____ is suspended for a period of _____ days beginning the effective of this decision.

Respondent shall cease all ~~pharmacy~~ operations as a [insert license type] during the period of suspension. Failure to comply with ~~this~~ any such suspension shall be considered a violation of probation.

Standard Stay/Probation Order

License number _____, issued to respondent is revoked; however, the revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Issuance of Probationary License (In cases where a Statement of Issues has been filed.)

Upon satisfaction of all statutory and regulatory requirements for issuance of a [insert license type] license, a license shall be issued to respondent and immediately revoked; the order of revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Surrender

Respondent ~~owner~~ surrenders license number _____ as of the effective date of this decision. Respondent ~~owner~~ shall relinquish the premises wall license and renewal license to the board within ten (10) days of the effective date of this decision.

The surrender of respondent's license and the acceptance of the surrendered license by the board shall constitute the imposition of discipline against respondent. This decision constitutes a record of discipline and shall become a part of respondent's license history with the board.

Respondent ~~owner~~ shall, within ten (10) days of the effective date, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the board of all controlled substances and dangerous drugs and devices. Respondent ~~owner~~ shall further provide written proof of such disposition and submit a completed Discontinuance of Business form according to board guidelines.

Respondent ~~owner~~ shall also, by the effective date of this decision, arrange for the continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five days of its provision to the pharmacy's ongoing patients, Respondent ~~owner~~ shall provide a copy of the written notice to the board. For the purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60) days.

Respondent ~~owner~~ understands and agrees that if ~~he or she~~ [he/she] ever files an application for a licensed premises or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure.

Respondent ~~owner~~ may not reapply for any license from the board for three (3) years from the effective date of this decision. Respondent ~~owner~~ stipulates that should ~~he or she~~ [he/she] apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true, correct and admitted by respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board. Respondent is required to report this surrender as disciplinary action.

Respondent ~~owner~~ further stipulates that ~~he or she~~ [he/she] shall reimburse the board for its costs of investigation and prosecution in the amount of \$_____ within _____ days of the effective date of this decision.

Option: Respondent ~~owner~~ stipulates that should ~~he or she~~ [he/she] apply for any license from the board on or after the effective date of this decision the investigation and prosecution costs in the amount of \$_____ shall be paid to the board prior to issuance of the new license.

Public Reprimand

It is hereby ordered that a public reprimand be issued against licensee, _____.
Respondent ~~owner~~ is required to report this reprimand as a disciplinary action.

Adoption of Stipulation

~~It is understood by respondent owner that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.~~

STANDARD CONDITIONS - To be included in all probation decisions/orders.

1. Definition: Respondent
- ~~4~~ 2. Obey All laws
- ~~2~~ 3. Report to the Board
- ~~3~~ 4. Interview with the Board
- ~~4~~ 5. Cooperate with Board Staff
- ~~5~~ 6. Reimbursement of Board Costs
- ~~6~~ 7. Probation Monitoring Costs
- ~~7~~ 8. Status of License
- ~~8~~ 9. License Surrender While on Probation/Suspension
10. Sale or Discontinuance of Business
- ~~9~~ 11. Notice to Employees
- ~~10~~ 12. Owners and Officers: Knowledge of the Law
13. Premises Open for Business
- ~~14~~ 14. Posted Notice of Probation
- ~~12~~ 15. Violation of Probation
- ~~13~~ 16. Completion of Probation

OPTIONAL CONDITIONS

17. Suspension
- ~~14~~ 18. Community Services Program
- ~~15~~ 19. Restitution
- ~~16~~ 20. Separate File of Records
- ~~17~~ 21. Report of Controlled Substances
- ~~18~~ 22. Surrender of DEA Permit
- ~~19~~ 23. Posted Notice of Suspension

STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS

1. Definition: Respondent

For the purposes of these terms and conditions, "respondent" shall refer to [insert name] and all terms and conditions stated herein shall bind and be applicable to the licensed premises and to all owners, managers, officers, administrators, members, directors, trustees, associates, or partners thereof. For purposes of compliance with any term or condition, any report, submission, filing, payment, or appearance required to be made by respondent to or before the board or its designee shall be made by an owner or executive officer with authority to act on behalf of and legally bind the licensed entity.

4 2. Obey All Laws

Respondent ~~owner~~ shall obey all state and federal laws and regulations.

Respondent ~~owner~~ shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws;
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment;
- a conviction of any crime; or
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's _____ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distributing, billing, or charging for any dangerous drug, device or controlled substance.

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

2 3. Report to the Board

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

3 4. Interview with the Board

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

4 5. Cooperate with Board Staff

Respondent ~~owner~~ shall timely cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of ~~his or her~~ the probation, including but not limited to: timely responses to requests for information by board staff; timely compliance with directives from board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

5 6. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, respondent ~~owner~~ shall pay to the board its costs of investigation and prosecution in the amount of \$_____. Respondent ~~owner~~ shall make said payments as follows: _____. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent ~~owner~~ shall not relieve respondent of ~~his or her~~ its responsibility to reimburse the board its costs of investigation and prosecution.

OPTION: Respondent shall be permitted to pay these costs in a payment plan approved by the board or its designee, so long as full payment is completed no later than one (1) year prior to the end date of probation.

6 7. Probation Monitoring Costs

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

7 8. Status of License

Respondent ~~owner~~ shall, at all times while on probation, maintain current licensure with the board. ~~If respondent owner submits an application to the board, and the application is approved, for a change of location, change of permit or change of ownership, the board shall retain continuing jurisdiction over the license, and the respondent shall remain on probation as determined by the board.~~ Failure to maintain current licensure shall be considered a violation of probation.

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

8 9. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent ~~owner~~ discontinue business, respondent ~~owner~~ may tender the premises license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other

action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

OPTION (To be included if the respondent is a pharmacy): Upon acceptance of the surrender, respondent ~~owner~~ shall relinquish the premises wall and renewal license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent ~~owner~~ shall further submit a completed Discontinuance of Business form according to board guidelines and shall notify the board of the records inventory transfer within five (5) days.

Respondent ~~owner~~ shall also, by the effective date of this decision, arrange for the continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five days of its provision to the pharmacy's ongoing patients, Respondent ~~owner~~ shall provide a copy of the written notice to the board. For the purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60) days.

Respondent ~~owner~~ may not apply for any new licensure license from the board for three (3) years from the effective date of the surrender. Respondent ~~owner~~ shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

Respondent ~~owner~~ further stipulates that ~~he or she~~ it shall reimburse the board for its costs of investigation and prosecution prior to the acceptance of the surrender.

10. Sale or Discontinuance of Business

During the period of probation, should respondent sell, trade or transfer all or part of the ownership of the licensed entity, discontinue doing business under the license issued to respondent and the assumption of practice at that location by another full or partial owner, person, firm, business, or entity, under the same or a different premises license number, the board or its designee shall have the sole discretion to determine whether to exercise continuing jurisdiction over the licensed location, under the current or new premises license number, and/or carry the remaining period of probation forward to be applicable to the current or new premises license number.

9 11. Notice to Employees

Respondent ~~owner~~ shall, upon or before the effective date of this decision, ensure that all employees involved in permit operations are made aware of all the terms and conditions of probation, either by posting a notice of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout the probation period. Respondent ~~owner~~ shall ensure that any employees hired or used after the effective date of this decision are made aware of the terms and conditions of probation by posting a notice, circulating a notice, or both. Additionally, respondent ~~owner~~ shall submit written notification to the board, within fifteen (15) days of the effective date of this decision, that this term has been satisfied. Failure to submit such notification to the board shall be considered a violation of probation.

"Employees" as used in this provision includes all full-time, part-time, volunteer, temporary and relief employees and independent contractors employed or hired at any time during probation.

10 12. Owners and Officers: Knowledge of the Law

Respondent shall provide, within thirty (30) days after the effective date of this decision, signed and dated statements from its owners, including any owner or holder of ten percent (10%) or more of the interest in respondent or respondent's stock, and any officer, stating under penalty of perjury that said individuals have read and are familiar with state and federal laws and regulations governing the practice of pharmacy. The failure to timely provide said statements under penalty of perjury shall be considered a violation of probation.

13. Premises Open for Business

Respondent shall remain open and engaged in its ordinary business as a [insert license type] in California for a minimum of _____ hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during with this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation, unless respondent is informed otherwise in writing by the board or its designee. If respondent is not open and engaged in its ordinary business as a [insert license type] for a minimum of _____ hours in any calendar month, for any reason (including vacation), respondent shall notify the board in writing within ten (10) days of the conclusion of that calendar month. This notification shall include at minimum all of the following: the date(s) and hours respondent was open; the reason(s) for the interruption or why business was not conducted; and the anticipated date(s) on which respondent will resume business as required. Respondent shall further notify the board in writing with ten (10) days following the next calendar month during which respondent is open and engaged in its ordinary business as a [insert license type] in California for a minimum of _____ hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

14. Posted Notice of Probation

Respondent owner shall prominently post a probation notice provided by the board or its designee in a place conspicuous to and readable by the public within two (2) days of receipt thereof from the board or its designee. Failure to timely post such notice, or to maintain the posting during the entire period of probation, shall be considered a violation of probation. The probation notice shall remain posted during the entire period of probation.

~~Respondent owner shall not, directly or indirectly, engage in any conduct or make any statement which is intended to mislead or is likely to have the effect of misleading any patient, customer, member of the public, or other person(s) as to the nature of and reason for the probation of the licensed entity.~~

~~Failure to post such notice shall be considered a violation of probation.~~

15. Violation of Probation

If a respondent ~~owner~~ has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent license, and probation shall be automatically extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If respondent ~~owner~~ violates probation in any respect, the board, after giving respondent ~~owner~~ notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. ~~Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license.~~ If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

13 16. Completion of Probation

Upon written notice by the board or its designee indicating successful completion of probation, respondent license will be fully restored.

OPTIONAL CONDITIONS OF PROBATION

14 17. Suspension

As part of probation, respondent's license to operate a [insert license type] is suspended for _____ [day(s)/month(s)/year(s)] beginning the effective date of this decision. Respondent shall cease all operations as a [insert license type] during the period of suspension. Failure to comply with any such suspension shall be considered a violation of probation.

14. 18. Community Services Program

Within sixty (60) days of the effective date of this decision, respondent ~~owner~~ shall submit to the board or its designee, for prior approval, a community service program in which respondent shall provide free health-care related services to a community or charitable facility or agency for at least _____ hours per _____ for the first _____ of probation.

Within thirty (30) days of board approval thereof, respondent ~~owner~~ shall submit documentation to the board demonstrating commencement of the community service program. Respondent ~~owner~~ shall report on progress with the community service program in the quarterly reports.

Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

15. 19. Restitution (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

Within _____ days of the effective date of this decision, respondent ~~owner~~ shall pay restitution to _____ in the amount of \$ _____. Failure to make restitution by this deadline shall be considered a violation of probation.

~~16.~~ 20. Separate File of Controlled Substances Records

Respondent ~~owner~~ shall maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such file or make it available for inspection shall be considered a violation of probation.

~~17.~~ 21. Report of Controlled Substances

Respondent ~~owner~~ shall submit ~~quarterly~~ reports to the board detailing the total acquisition and disposition of such controlled substances as the board or its designee may direct. Respondent ~~owner~~ shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent ~~owner~~ shall report on a quarterly basis or as directed by the board or its designee. The report shall be delivered or mailed to the board no later than ten (10) days following the end of the reporting period as determined by the board or its designee. Failure to timely prepare or submit such reports shall be considered a violation of probation.

~~18.~~ 22. Surrender of DEA Permit

Within thirty (30) days of the effective date of this decision, respondent ~~pharmacy~~ shall surrender its federal Drug Enforcement Administration (DEA) permit to the DEA, for cancellation. Respondent ~~pharmacy~~ shall provide documentary proof of such cancellation to the board or its designee. Thereafter, respondent ~~pharmacy~~ shall not apply/reapply for a DEA registration number without the prior written consent of the board or its designee.

Option: Respondent ~~pharmacy~~ may obtain a DEA permit restricted to Schedule(s) _____ controlled substance(s).

Option: Respondent ~~pharmacy~~ shall not order, receive, or retain any federal order forms, including DEA Form 222 forms, for controlled substances.

~~19.~~ 23. Posted Notice of Suspension

Respondent ~~owner~~ shall prominently post a suspension notice provided by the board in a place conspicuous and readable to the public within two (2) days of receipt thereof from the board or its designee. The suspension notice shall remain posted during the entire period of suspension ordered by this decision. Failure to timely post such notice, or to maintain the posting during the entire period of suspension, shall be considered a violation of probation.

Respondent ~~owner~~ shall not, directly or indirectly, engage in any conduct or make any statement, orally, electronically or in writing, which is intended to mislead or is likely to have the effect of misleading any patient, customer, member of the public, or other person(s) as to the nature of and reason for the closure of the licensed entity.

~~6/2007~~ 9/2011



2011 NOV -4 AM 11: 28

9300 Valley Children's Place
Madera, California 93636-8762
T: 559.353.3000
www.childrenscentralcal.org

October 28, 2011

California State Board of Pharmacy
Enforcement Committee
1625 N. Market Blvd, Suite N-219
Sacramento, California 95834

Dear Sirs:

I would like to comment on the recent Disciplinary Guidelines during this 45 day public comment period. I will list the areas of question, need for clarification and consideration along with some explanation on the part in question along with a recommendation for your consideration

1. Page one, fifth paragraph, second sentence: The board recognizes that individuals.....proposed stipulation, especially where the category III or IV violations are involved.

Recommendation: Remove "especially where.....are involved". If a departure from the guidelines is made by the board, should not the board's actions be clarified for the individual and for the future regardless of the severity? It is still a deviation from the norm and the respondent should be provided an explanation.

2. Page 2, third paragraph, first sentence: The board recognizes.....acts of pharmacy personnel.

Point of Clarification: Why was the manager added to individuals who would be held accountable? The term manager is not clearly defined in that one could eliminate the position manager and substitute "lead", "supervisor", "head", etc. Then they would not be accountable per the disciplinary guideline document. The PIC being held totally responsible does not fit the current model or large organizations such as hospital pharmacy. I believe the original intent to make the PIC the ultimate person accountable was the organizational structure of the independent pharmacies of the past. If you remember, most pharmacies many years ago were independent, owner based. The owner was the only pharmacist or had a very small staff. Perhaps there were one or two other pharmacists working along side the owner of the independent pharmacy. Thus holding the PIC of a large organization and now a manager will result in placing blame on the incorrect individual.

The disciplinary group should hold the individual failing to follow the policies and procedures intentionally accountable. The PIC should ensure that there are policies and procedures in place for staff to follow to comply with the regulations. The board's disciplinary group should utilize "just culture" in determining the significance of the failure to comply with the regulation(s). Staff not following the policy and procedure as established by the PIC should be held accountable.

3. Page 4, second paragraph, bullet point "g" - It seems that the section on "mitigating evidence" deals largely with individuals within a rehabilitative or recovery program. I would recommend that the second paragraph be reworded. Please consider adding an "h" to provide information of the individual being cited

for a situation not involving drugs/recovery etc. to provide mitigating evidence. This will clearly separate citations that are substance abuse related and those that are not substance abuse related.

4. Page 5, fifth paragraph, first sentence - Who is "designated representatives"? Are you including pharmacy clerks, pharmacy billers, etc who are non-licensed individuals that are employees of the pharmacy?

Recommendation - clarify who "designated representatives" are or eliminate this group.

5. Page 12, first paragraph, first sentence - Category II discipline...drug or controlled substance. Within this paragraph is the term "violations with serious potential for harm". I would question that this will be very difficult to clearly determine and maintain consistency in the board's interpretation.

Bullet point 3 - "repeat or serious violation(s) of recordkeeping.....
Repeat is defined. "Serious violation(s)" will be difficult to define and be consistent.

Bullet point 7 - again "serious failure(s) adequately supervise"

Recommendation: The term "serious" should be eliminated or defined more clearly.

6. Page 12, paragraph one, bullet points 8 and 10 - violations of law governing..... self-administration. Smaller scale dispensing..... without a valid prescription(s)

The term "smaller scale" in these two bullet points needs to be defined. Is it less than 100 or 10, per day or per month?

Recommendation: Define "smaller scale"

7. Page 12, paragraph one, bullet point 10 - Smaller scale dispensing.....without a valid prescription. Here is where the idea of intent and "Just Culture" should enter the decision. If the pharmacist knowingly filled the internet prescription that was not valid, then cite the person. If the pharmacist filled the prescription did not know the law but filled the prescription in good faith, less culpability. Granted the pharmacist should know the law.

Recommendation: Clarify to assure unintentional filling some does not result in a high end citation. Add the term "knowingly or willfully violating the law or regulation"

8. Page 12, paragraph one, bullet point 12 - Gross immorality.....dishonest, or fraud. The term "gross" is not defined clearly. To one board member gross means one thing and to another board member it will mean something completely different.

Recommendation: Define "gross"

9. Page 16, Category III, first paragraph, bullet point 2 - failure to deploy.... The pedigree requirements are not yet the law.

Recommendation: either remove or place a date that corresponds to the date of enactment.

10. Page 16, category III, first paragraph, bullet points 6, 7, 8, 14, 15, 17 - The term "serious" should be clearly defined to avoid confusion and will provide clarity.

Recommendation: like #5, consider eliminating serious or defining serious.

11. Page 16, category III, first paragraph, bullet point 9 - larger scale dispensing.....without a valid prescription

Again as in #6 & #7, "larger scale" needs to be defined and intent should be considered.

Recommendation: Define "larger scale" and add the term "knowing or willfully violating the law or regulation"

12. Page 19, category IV, first paragraph - Category IV discipline.....category may include.

Recommendation: Define "serious"

13. Page 21, header at the top of the page - Model Disciplinary Language.....Designated Representative.

Recommendation: Like #4, definition.

14. Page 21, Suspension Section, second paragraph, first sentence - During any such.....substances are maintained.

Recommendation: Is the "pharmacy area" defined as the prescription area only? If not, it should be.

15. Page 23, Public Reprimand - Respondent is required to report this reprimand as a disciplinary action. Public reprimands as I understand them fall into the disciplinary action bucket of unintentional violation of a rule or regulation. The individual is expected to correct his/her actions. A disciplinary action indicates more intent versus unknowingly and/or unwillfully violating a regulation or law. A disciplinary action adversely affects one's ability to obtain malpractice insurance as the insurance companies view a disciplinary action as a significant breach of the regulations or law.

Recommendation: Remove this sentence.

16. Page 27, Cooperate with Board Staff section, first sentence - Respondents shall timely cooperate with the board's inspection.....

Not sure what the intent of this sentence is, but the grammar needs work. "Timely" also appears in the last sentence of the paragraph.

Recommendation: Author should correct the grammar to ensure the intent of the word "timely" conveys what was intended in both the first and last sentence of the paragraph.

17. Page 28, Reporting of Employment and Notice to Employers Section, second paragraph.

Throughout the document "within thirty (30) days", "within fifteen (15) days", "with two (2) days" is used. Since I have seen the term "business days" utilized in this document, is it the intention of the board to mean

30, 10 or 2 "calendar" days or was this an oversight and the term "business" day should have been used? This is especially true with "within two (2) days" where the notification occurs on a Friday and the respondent needs to act upon this notification by Sunday.

Definition of a day should happen. Is it 24 hours or the end of a day? I.e. notification occurs in the morning and does the respondent have until midnight on that last day?

Recommendation: For consistency, utilize either "calendar day" or "business day" and clarify as to the time frame for successful compliance by the respondent.

18. Page 28, Reporting of Employment and Notice to Employers Section, second paragraph - within thirty (30) days.....or other compliance supervisor(s).

Can you define who the "compliance supervisor" is? Is it for the department or the organization, local or corporate? This term is used throughout the guidelines

Recommendation: Consider eliminating this individual as one already has the PIC listed.

19. Page 29, Supervision and Oversight of Licensed Facilities....., second paragraph, option 1, first sentence - During the period.....licensed by the board.

Does this section want to restrict a pharmacist who has been cited to not supervise non-licensed staff such as billers, clerks, claims processors or non-licensed staff not directly involved with patient care or all pharmacy personnel? Or will it be based upon the type of citation?

Recommendation: Perhaps utilize a different example to clarify the intent of the board's actions.

20. Page 32-33, Notification of Departure first paragraph - prior to leavingdeparture and return

What is the purpose on the restriction of leaving a geographic area? It seems that the purpose of the provision is to ensure the individual does not practice pharmacy as defined by the board's restrictions. What if the person is boarded in another state? Why can't this person work in another state? What if the individual wants to take an extended vacation outside the "geographic area" however it is defined; this would require the respondent to follow this process.

Recommendation: Consider elimination of this section.

21. Page 33, License Practice Requirement-Tolling Section,

Why must a pharmacist on probation be required to a minimum number of hours as determined by the board? If the pharmacist has the financial means and elects not to practice it should be his/her choice. Perhaps the individual would like to take a two month time off. With these "minimum" hours per calendar month work amount, the individual could not take time off.

It is unclear to me on the purpose of this section.

Recommendation: Consider deletion of this section or explain the purpose of this section.

22. Page 35, third paragraph, option 1, first sentence - During the period..... (including vacation).

Why should a respondent be restricted to leaving California in excess of 10 days? Is it days in a row or cumulative? Say a respondent has the financial means to travel outside California, per this guideline the pharmacist would not be able to travel.

If the person meets with their probation officer, who cares if they are constantly leaving California and why restrict it to 10 days.

There is not mention of an appeal process for extending the number of days.

Rationale - flight risk?

Recommendation: Consider revisiting this and determine the purpose to see if this really supports the purpose and intent of this regulation. Add a piece on an appeal process to extend the number of total days in the particular calendar year.

23. Page 36, first paragraph, last sentence, Respondent shall not.....and controlled substances.

Typo "devises" versus "devices"

Recommendation: typo correction.

24. Page 38, paragraph two - The board or its designee.....last five (5) years.

(3) years" experience chosen versus two or four or whatever? Why is "five (5)" chosen for the duration of time between the evaluator and the respondent? Why not 10 or 15? Five years after a divorce of say litigation would not yet have been forgotten.

Recommendation: Clarify the rationale for the two chosen periods of time listed in the guidelines.

25. Page 36, fifth paragraph, first sentence - If respondent fails to.....as approved by the board.

Semester Units are not the same a quarter units as not all schools of pharmacy in California are on the semester system. Should not the education be provided by an accredited school of pharmacy to ensure quality education is being provided and taken by the respondent?

Recommendation: The respondent shall submit in writing to the board or its designee satisfactory proof of completion of sixteen (16) additional semester units or equivalent quarter units of pharmacy education from an accredited school of pharmacy.

26. Page 46, Drug and Alcohol Testing section, last paragraph,

The term "designee" which appears several times in this paragraph should be defined

Recommendation: define "designee"

27. Page 54, No Access to Controlled Substances section, first paragraph - During the period.....inclusive.

A pharmacist may have a legitimate prescription for a controlled substance. The word "possess" would prevent this individual to possess a controlled substance that was properly prescribed for the respondent.

Recommendation: Consider adding an exception "excluding a valid prescription for controlled substance for personal use"

28. Page 56, Surrender DEA Permit section, first sentence - Within thirty (30)..... for cancellation.

Pharmacists in general do not have DEA permits. Definitely a pharmacy intern does not possess one.

Recommendation: review the intent of this section and clarify.

29. Page 91, Category II section,

Define terms "gross", "smaller scale", "serious"

Recommendation: define above terms

30. Page 95, Category III, second bullet point - Failure todangerous drugs.

The pedigree requirements are pending.

Recommendation: same as #9.

31. page 95, Category III section,

Define terms "larger scale", "serious"

Bullet 10 has a typo, "devises" versus "devices"

Recommendation: See #11 and #12

32. Page 96, Category III section, bullet three, Violation(s) involving.....to addicts.

One can dispense say methadone to a patient on the methadone maintenance program if a patient is in the hospital as long as the pharmacy follows the rules for dispensing to patients on the methadone maintenance program. Please validate my recommendation and utilize the verbiage as appropriate.

Recommendation: Add "unless as provision....."

33. Page 98, Category IV section, bullet three - repeat or serious.....or Category III.

Define "serious"

Recommendation: see #12

34. Page 101, public reprimand section. Second sentence - respondent is required.....as a disciplinary action.

Recommendation: see #15

35. Page 104, Reimbursement of Board Costs section

Is there a standard amount as to minimize the chance for excessive charges to the respondent?

Recommendation: clarify or add verbiage to ensure the price is standardized and not arbitrary.

36. Page 104, Reimbursement of Board Costs section, option 1 - respondents shall bedate of probation

This section indicates that the costs must be paid no later than one year prior to the end of the date of probation. If the probation assigned is one year as for a Category I situation, this indicates that the cost must be paid immediately rather than allowing for a payment plan.

Recommendation: modify to allow respondents given a one year probation may pay off the costs over a years time as those with two or three year probations.

37. Page 106, Premises open for business section,

Why must a pharmacy remain open? If the pharmacy license is revoked and/or this is an owner/pharmacist and one cannot find a person to keep it open, how may this pharmacist comply? Failure to comply results in a violation of the probation.

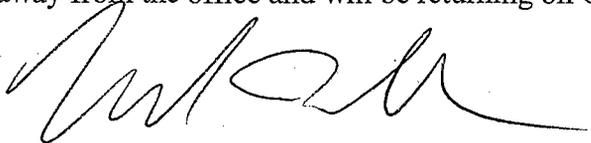
Recommendation: Reconsider the purpose and goal of this regulation.

38. Page 106, Posted Notice of Probation section first paragraph - Respondents shallor its designee.

Posting of notice within two (2) days of receipt will be a challenge. Not all pharmacies are open 7 days a week. The intent is to notify the consumer of the action being taken against the respondent.

Recommendation: Change this to two (2) business days.

Thank you very much for your time and consideration in this matter. Should you have any questions or need for me to clarify any of my comments, please do not hesitate in contacting me. Please note that I will be away from the office and will be returning on October 24, 2011



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