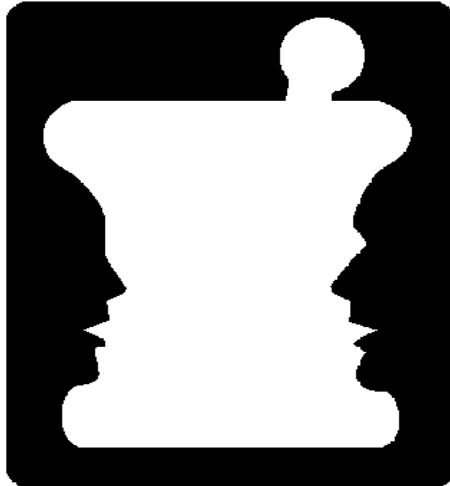


## **DISCIPLINARY GUIDELINES**

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. 4/2024)**

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

**Seung Oh**  
PRESIDENT

**Anne Sodergren**  
EXECUTIVE OFFICER

2720 Gateway Oaks Dr, Suite 100  
Sacramento, CA 95833  
(916) 518-3100  
(916) 574-8618 Fax  
[www.pharmacy.ca.gov](http://www.pharmacy.ca.gov)

**BOARD OF PHARMACY**  
**DISCIPLINARY GUIDELINES**  
**TABLE OF CONTENTS**

Introduction .....	1
Factors to be Considered in Determining Penalties .....	3
Mitigating Evidence .....	4
<b>Individual Licensees</b> .....	<b>5</b>
Terms of Probation – Individual Licensees .....	6
Categories of Violation and Recommended Penalties .....	6
Category I – Penalty .....	7
Category II – Penalty .....	7
Category III – Penalty .....	8
Category IV – Penalty .....	10
Model Disciplinary Language – Individual Licensees .....	11
Standard Conditions .....	15
Optional Conditions .....	22
<b>Premises</b> .....	<b>42</b>
Terms of Probation – Premises .....	42
Category I – Penalty .....	43
Category II – Penalty .....	43
Category III – Penalty .....	44
Category IV – Penalty .....	46
Model Disciplinary Language – Premises .....	47
Standard Conditions .....	51
Optional Conditions .....	56

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

**DISCIPLINARY GUIDELINES  
(Rev. 4/2024)**

**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 and intern pharmacists are patient advocates and vital members of the clinical care team who provide pharmaceutical care and exercise clinical judgment for their patients. They also exercise critical vigilance and control over medication stocks, drug inventories, and quality assurance protocols. Pharmacy technicians provide crucial assistance to pharmacists and intern pharmacists in all of their pharmacy tasks. Pharmacists and intern pharmacists enlighten their patients about their drug therapies through effective communicating and listening, assessing, collaborating, understanding, and intervening. They also, under appropriate conditions, initiate or terminate drug therapies, compound drug preparations, ensure safety and security of drug stocks, and otherwise contribute to clinical safety and performance. Also, pharmacists and intern pharmacists are always vigilant to ensure that drug therapies are being appropriately and effectively utilized. When a pharmacist takes on the responsibility of a pharmacist-in-charge, the pharmacist also ensures the pharmacy's compliance with state and federal law, quality assurance responsibilities, and inventory controls. Likewise, the premises and other individuals licensed by the Board help to ensure the reliability, safety, and security of the dangerous drug and/or dangerous device supply chain, so that patients and prescribers can be confident in the drugs or devices prescribed. 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/or dangerous devices 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, and the provisions contained in Sections 1771—1774, 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, 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 they fail 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 on 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 they work. 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. Typically, the Board also believes in holding a pharmacy owner, manager, and/or pharmacist-in-charge responsible for the acts of pharmacy personnel.

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 1203.4 of the Penal Code
13. time passed since the act(s) or offense(s)
14. whether the conduct was intentional, negligent, or demonstrated incompetence
15. financial benefit to the respondent from the misconduct
16. other licenses held by the respondent and license history of those licenses-
17. Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (see Business and Professions Code 315)
18. if the respondent is being held accountable for conduct committed by another, whether the respondent had knowledge of or knowingly participated in such conduct.

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 penalty.

## 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 they have 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 their rehabilitative efforts and competency, for consideration by the Board:

- 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 relevant to the disciplinary proceeding, 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 licensed treatment providers regarding the respondent's participation in a rehabilitation or recovery program, which should include at least a description and requirements of the program, a diagnosis of the condition and current state of recovery, and the 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 California licensed health care practitioner, confirming the absence of any physical impairment that would prohibit the respondent from practicing safely consistent with the health care practitioner's scope of practice. Such 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.
  
- h. For premises licensees, recent, dated letters from appropriate licensees or representatives of licensees of the Board in good standing, or from appropriate consultants and/or experts in the field, written by persons familiar with respondent in either a personal or professional capacity regarding their knowledge of: the character and rehabilitation, if any, of respondent's owner(s), officer(s), or managerial employee(s); the conduct of which the respondent is accused; the details of respondent's operation(s); 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 – INDIVIDUAL LICENSEES**

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. The Board also uses the Uniform Standards Regarding Substance-Abusing Licensees developed by the Substance Abuse Coordinating Committee of the Department of Consumer Affairs (2011).

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, 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 least serious (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.

For each violation category, the Board has given 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 presume a single violation. 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; two years' 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 that are less serious than Category II through IV but are potentially harmful. These may include:

- violations of recordkeeping 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 or ensure security and sanitation of premises, dangerous drugs and/or dangerous devices, or controlled substances;
- violation(s) of packaging requirements, security control requirements, or reporting requirements;
- violation(s) involving the improper compounding of drug products; and
- violation(s) resulting from the misuse of education or licensing privileges, irrespective of whether it occurs outside of an entity licensed by the Board.

## **CATEGORY II**

Minimum: Revocation; Revocation stayed, three years' probation (five years' probation in cases involving self-administration or diversion of controlled substances or dangerous drugs and/or dangerous devices, or abusive use of alcohol). All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category II discipline is recommended for violation(s) 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 and/or dangerous devices or controlled substances, violations that reflect on ethics, competence, or diligence, and criminal convictions not involving alcohol, dangerous drugs and/or dangerous 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 and/or dangerous devices, or controlled substances;
- violation(s) of law governing controlled substances, dangerous drugs and/or dangerous devices, or alcohol, including smaller cases of diversion or self-administration or abusive use of a controlled substance, dangerous drug and/or dangerous devices, or alcohol;
- unlawful possession(s) of dangerous drugs and/or dangerous devices, controlled substances, hypodermic needles and syringes, or drug paraphernalia;
- smaller scale dispensing or furnishing of dangerous drug(s) and/or dangerous device(s) via the internet without valid prescription(s);
- purchasing, trading, selling, or transferring dangerous drug(s) and/or dangerous device(s) to or from unauthorized person(s);
- failure(s) to make required reports to the 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, excessive furnishing of controlled substances, moral turpitude, dishonesty, or fraud;
- criminal conviction(s) not involving alcohol, dangerous drugs and/or dangerous devices, or controlled substances;
- violating, or assisting in or abetting violation(s) of, or conspiring to violate, the laws and regulations governing pharmacy;
- subverting or attempting to subvert an investigation conducted by the Board;
- repeated violation(s) involving the improper compounding of drug preparations;
- repeated violation(s) involving the improper sterile compounding of drug preparations; and
- violations resulting from the misuse of education or licensing privileges, irrespective of whether these violations occur in an entity regulated by the Board.

### **CATEGORY III**

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three to five years' probation (five years' probation in cases involving self-administration or diversion of controlled substances or dangerous drugs and/or dangerous devices, or abusive use of alcohol). 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 and/or dangerous devices or controlled substances, and most criminal convictions involving alcohol, dangerous drugs and/or dangerous devices 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 Drug Supply Chain Security Act requirements, and other similar requirements for dangerous drugs and/or dangerous devices;
- 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 controlled substances, dangerous drugs and/or dangerous devices, or alcohol, including repeat or serious diversion or self-administration, or abuse;
- violation(s) of law governing self-administration of controlled substances that create a potential infection control risk;
- repeat or serious unlawful possession(s) of dangerous drugs and/or dangerous devices, controlled substances, hypodermic needles or syringes, or drug paraphernalia;
- larger scale dispensing or furnishing of dangerous drug(s) and/or dangerous device(s) via the internet, without valid prescription(s);
- purchasing, trading, selling, or transferring adulterated, misbranded, or expired dangerous drug(s) and/or dangerous device(s);
- removal, sale, or disposal of embargoed dangerous drug(s) and/or dangerous device(s);
- failing to maintain record(s) of acquisition and disposition of dangerous drug(s) and/or dangerous 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) and/or dangerous device(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;
- violation(s) involving providing or offering to provide controlled substance(s) to addict(s);
- repeat or serious violation(s) involving the improper compounding of drug products; and
- repeat or serious violation(s) resulting from the misuse of education or licensing privileges, irrespective of whether it occurs outside of an entity licensed by the Board.

## **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 and/or dangerous devices or controlled substances. Violations in this category may include:

- violations involving possession for sale, transportation, importation, and/or use of a minor for unlawful sale of controlled substances;
- criminal convictions involving the above, or repeat convictions involving diversion or abuse of alcohol, dangerous drugs and/or dangerous devices, or controlled substances;
- repeated or serious example(s) of conduct described in Category I, Category II, or Category III;
- violation(s) of law governing self-administration of controlled substances that create a potential infection control risk.

Revocation is also recommended where a respondent fails to file a notice of defense to an Accusation or Petition to Revoke Probation 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.

## MODEL DISCIPLINARY LANGUAGE - INDIVIDUAL LICENSEES

The following standardized language shall be used in every decision where the order or condition is imposed. Where brackets appear, drafters should choose the appropriate term or consider the text instructional.

### Revocation

License number \_\_\_\_\_, issued to respondent \_\_\_\_\_, is revoked. Respondent shall relinquish their license, including any indicia of licensure issued by the Board, to the Board within 10 days of the effective date of this decision. Respondent may not reapply or petition the Board for reinstatement of their revoked license for three years from the effective date of this decision.

As a condition precedent to reinstatement of their 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 reinstatement of their 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 practice as a(n) [insert license type] for [day(s)/month(s)/year(s)] beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of any Board-licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Respondent shall engage in no activities for which a license or permit is required by the Board under the Pharmacy Law (commencing with section 4000 of the Business and Professions Code) 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 dangerous devices or controlled substances.

During suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any authorized functions performed within Board-licensed premises.

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

### Revocation, stayed, 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:

It is further ordered that any new license(s) issued while respondent remains on probation shall also be placed on probation subject to the same terms and conditions applicable to respondent's \_\_\_\_\_ license.

**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: (Intern Pharmacist Only)**

Should the Board subsequently issue a license to practice as a pharmacist to respondent during the period of probation, the intern license shall be cancelled and the pharmacist 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 remain 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 their license, including any indicia of licensure issued by the Board, 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 for the purposes of Business and Professions Code section 4307, this surrender shall be treated as if the license had been revoked.

Respondent may only seek a new or reinstated license from the Board by way of a petition for reinstatement. Respondent shall petition for reinstatement of a revoked license.

Respondent may not petition for any license, permit, or registration from the Board for three years from the effective date of this decision. Respondent stipulates that should they 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 petition.

Respondent is required to report this surrender as disciplinary action.

Respondent further stipulates that they 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 they petition for reinstatement of their 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 reinstatement.

**Public Repeal**

It is hereby ordered that license number \_\_\_\_\_ issued to respondent shall be publicly repealed by the Board of Pharmacy, under Business and Professions Code section 495, in resolution to Accusation No. \_\_\_\_\_, attached as Exhibit A.

Respondent is required to report this repeal as a disciplinary action.

**License Reinstatement with Conditions Precedent (Pharmacists and Pharmacy Technicians Only)**

It is hereby ordered that the petition for reinstatement is granted. Upon satisfaction of the following conditions precedent to licensure, Petitioner’s License No. \_\_\_\_\_ will be reinstated:

**OPTION (Pharmacists Only)**

- a. Petitioner must satisfy licensure requirements as defined by Business and Professions Code section 4200, subdivision (a) [insert B&P code sections which the Board seeks to require as a condition of reinstatement] within one (1) year of the effective date of this order. Failure to take and pass the examination(s) within one (1) year of the effective date of this order shall invalidate the order granting the petition for reinstatement. Petitioner shall be deemed to have failed the conditions precedent for re-licensure, and Petitioner’s License No. \_\_\_\_\_ shall remain [revoked or surrendered].
- b. Petitioner must pay the fee(s) in place at the time for [this/these] examination(s).
- c. Petitioner must pay all applicable application and licensing fees, as well as any cost recovery owed from the prior action.

**Option (Pharmacy Technicians Only)**

- a. Petitioner shall become certified, as defined by Business and Professions Code section 4202, subdivision (a)(4), within one (1) year of the effective date of this order. Failure to become certified within one (1) year of the effective date of this order shall invalidate the order granting the petition for reinstatement, Petitioner shall be deemed to have failed the conditions precedent for re-licensure, and Petitioner’s License No. \_\_\_\_\_ shall remain [revoked or surrendered].



- b. Petitioner must pay the fee(s) in place at the time for [this/these] examination(s).
- c. Petitioner must pay all applicable application and licensing fees, as well as any cost recovery owed from the prior action.

Upon completion of the foregoing conditions precedent, Petitioner's license shall be reinstated and immediately revoked, with revocation stayed and Petitioner placed on probation for a period of \_\_\_\_\_ year(s) on 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. Petitioner's license shall be reinstated and immediately revoked, with revocation stayed and Petitioner placed on probation for a period of \_\_\_\_\_ year(s) on the following terms and conditions:

**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)
8. Restrictions on Supervision and Oversight of Licensed Facilities
9. Reimbursement of Board Costs
10. Probation Monitoring Costs
11. Status of License
12. License Surrender While on Probation/Suspension
13. Certification Prior to Resuming Work
14. Practice Requirement – Extension of Probation
15. Violation of Probation
16. Completion of Probation

**OPTIONAL CONDITIONS**

17. Suspension
18. Restricted Practice
19. Pharmacist Examination
20. Clinical Diagnostic Evaluation
21. Psychotherapy
22. Medical Evaluation
23. Pharmacists Recovery Program (PRP)
24. Drug and Alcohol Testing
25. Notification of Departure
26. Abstain from Drugs and Alcohol
27. Prescription Coordination and Monitoring of Prescription Use
28. Facilitated Group Recovery and/or Support Meetings
29. Attend Substance Abuse Recovery Relapse Prevention and Support Groups
30. Work Site Monitor
31. Community Service Program
32. Restitution
33. Remedial Education
34. Ethics Course
35. Supervised Practice
36. No Ownership or Management of Licensed Premises
37. Separate File of Controlled Substances Records
38. Report of Controlled Substances
39. No Access to Controlled Substances
40. Criminal Probation/Parole Reports
41. Board's One-Day Training Program
42. Surrender of DEA Permit
43. Administrative Fine

## **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, information, or indictment for violation of any state and federal laws
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information, or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency.

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. 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 participate as directed for interviews with the Board, at such intervals and locations as are determined by the Board. 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 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 their 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 and in compliance with Title 16 California Code of Regulations section 1732.3.

## **6. Reporting of Employment and 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 ten (10) days of undertaking any new employment, respondent shall report to the Board in writing the name, physical address, and mailing address of each of their employer(s), and the name(s), telephone number(s), and email address(es) of all of their direct supervisor(s), as well as any pharmacist(s)-in-charge, designated representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for leaving the prior employment and the last day worked. Respondent shall sign and return to the Board a written consent authorizing the Board 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 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) their direct supervisor, (b) their pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of their employer, 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. 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 acknowledgment(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 they have read the decision in case number \_\_\_\_\_, and the terms and conditions imposed thereby.

If respondent works for or is employed by or through 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. 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 an employment service, respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the Board in writing acknowledging that

they have 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.

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 includes any full-time, part-time, temporary, relief, or employment/management service position as a(n) [insert license type], or any position for which a [insert license type] license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor, or volunteer.

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

Respondent shall further notify the Board as directed within ten (10) days of any change in name, residence address, mailing address, e-mail address, or phone number.

Failure to timely notify the Board of any change in employer, name, address, email address, or phone number, within 10 days of the change, shall be considered a violation of probation.

#### **8. Restrictions on Supervision and Oversight of Licensed Facilities (Not appropriate for Pharmacy Technicians)**

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge, designated representative-in-charge, responsible manager, supervising pharmacist, quality manager, designated individual (as defined in the United States Pharmacopeia (USP), including an individual responsible and accountable for the performance and operations of the facility and personnel in the preparation of compounded sterile products), or other supervisor, nor serve as a consultant of any entity licensed by the Board. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

##### **Option 1 (To be included along with standard language when appropriate):**

During the period of probation, respondent shall not supervise any ancillary personnel, including, but not limited to, pharmacy technicians, designated representatives, designated representative-3PL, designated individuals (as defined in USP, including as an individual responsible and accountable for the performance and operations of the facility and personnel, in the preparation of compounded products), and production operators in any entity licensed by the Board. Assumption of any such unauthorized ancillary personnel supervision responsibilities shall be considered a violation of probation.

##### **Option 2 (To be used in place of standard language when appropriate):**

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, responsible manager, designated individual (as defined in USP, including an individual responsible and

accountable for the performance and operations of the facility and personnel, in the preparation of compounded products), or other compliance supervisor of any single entity licensed by the Board, but only if respondent or that entity retains, at their own 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 their supervisory position. The consultant shall have education, training, and professional experience to be able to provide guidance to Respondent related to the causes for discipline in Case No. \_\_\_\_\_. Respondent may serve in such a position at only one entity licensed by the Board, and only upon approval by the Board. Any such approval shall be site specific. The consultant shall be a pharmacist licensed by and not on probation with the Board or other professional as appropriate and not on probation with the Board, who has been approved by the Board to serve in this position. Respondent shall submit the name of the proposed consultant to the Board for approval within thirty (30) days of the effective date of the decision or prior to assumption of duties allowed in this term. 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.

## **9. 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. 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, so long as full payment is completed no later than one (1) year prior to the end date of probation.

## **10. 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. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

## **11. 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 license shall be subject to all terms and conditions of this probation not previously satisfied.

## **12. 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 relinquish license, including any indicia of licensure issued by the Board, along with a request to surrender the license. The Board shall have the discretion whether to accept the 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 their pocket and/or wall license, including any indicia of licensure not previously provided to the Board within ten (10) days of notification by the Board that the surrender is accepted if not already provided. 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.

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

Respondent shall be suspended, and shall not work as a pharmacy technician, until they have: been certified as defined by Business and Professions Code section 4202, subdivision (a)(4), submitted proof of certification to the Board, and been notified by the Board that they may begin work. Failure to achieve certification within six (6) months of the effective date shall be considered a violation of probation.

During suspension, respondent shall not enter any pharmacy area or any portion of any other Board licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Respondent shall not exercise any of the privileges conveyed by the Board 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/or dangerous devices or controlled substances.

During this suspension, respondent shall not engage in any activity that requires licensure as a pharmacy technician. Respondent shall not direct or control any aspect of any Board-licensed premises.

Failure to comply with 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. Practice Requirement – Extension of Probation**

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a(n) [insert license type] in California for a minimum of \_\_\_\_\_ hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the Board.

If respondent does not practice as a(n) [insert license type] in California for the minimum number 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 least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction 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(n) [insert license type] in California for the 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 be extended pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months. The Board may post a notice of the extended probation period on its website.

**Option: (Pharmacist interns only)** During respondent's 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, on their compliance with academic and vocational requirements, and on their academic progress. Respondent must comply with all other terms and conditions of probation, unless notified in writing by the Board.

#### **15. Violation of Probation**

If respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and the Board shall provide notice to respondent that 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. The Board may post a notice of the extended probation period on its website.

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. If a petition to revoke probation or an accusation is filed against respondent during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, 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.

## **16. Completion of Probation**

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

## **OPTIONAL CONDITIONS OF PROBATION**

### **17. Suspension**

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

During suspension, respondent shall not enter any pharmacy area or any portion of any Board-licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Respondent shall not exercise any of the privileges conveyed by the Board, 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 dangerous devices or controlled substances.

During this suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board-licensed premises.

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

**Option:** 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 respondent is notified otherwise in writing by the Board.

Respondent shall notify the Board in writing within ten (10) days of any departure from California, for any period, and shall further notify the Board 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 practice until notified by the Board that the period of suspension has been satisfactorily completed.

### **18. Restricted Practice**

Respondent's practice as a(n) [insert license type] shall be restricted to [specify setting or type of practice] for the first \_\_\_\_\_ year(s) of probation. Respondent shall submit

proof satisfactory to the Board of compliance with this term of probation.

**Option:** Respondent shall not [sterile] compound, supervise [sterile] compounding, or be involved in [sterile] compounding during the first \_\_\_\_\_ year(s) of probation. Upon request, respondent shall submit to the Board in writing, satisfactory proof 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 their employer, which explains whether the workplace in question compounds drug products and how this restriction will be enforced. Failure to abide by this restriction or to timely submit proof to the Board shall be considered a violation of probation.

## **19. Pharmacist Examination (Pharmacists Only)**

Respondent must pass the examinations required for licensure, as defined by Business and Professions Code section 4200, subdivision (a) 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 of the effective of this decision, respondent shall be automatically suspended from practice. Respondent shall not resume the practice of pharmacy until they take and pass the examination(s) and are notified, in writing, that they have passed the examination(s) and may resume practice. Respondent shall bear all costs of the examination(s) required by the Board.

During any suspension, respondent shall not enter any pharmacy area or any portion of any Board-licensed premises where dangerous drugs, dangerous devices, or controlled substances are maintained. Respondent shall not exercise any of the privileges conveyed by the Board, 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, dangerous devices, or controlled substances.

During any 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 any Board-licensed premises.

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

Failure to take and pass the examination(s) within twelve (12) months of the effective date of this decision shall be considered a violation of probation.

If respondent fails to comply with licensure requirements, as defined by Business and Professions Code section 4200, subdivision (a), after four attempts, respondent shall successfully complete, at a minimum, sixteen (16) additional semester units of pharmacy education as approved by the Board. Respondent shall complete the coursework, and submit proof of completion satisfactory to the Board, within three (3) months of the fourth failure of the examination. Failure to complete coursework or provide proof of such completion as required shall be considered a violation of probation.

**20. Clinical Diagnostic Evaluation** (Appropriate for those cases where evidence demonstrates that psychiatric disorders, mental health issues, emotional disturbance, gambling addiction), diversion, self-administration, or use of alcohol or drugs, 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 required by the Board, respondent shall undergo, at their own expense, clinical diagnostic evaluation(s) by a licensed practitioner selected or approved prior to the evaluation by the Board. The approved evaluator shall be provided with a copy of the Board's [accusation, 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(n) [insert license type] with safety to the public. 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, inpatient treatment, prescription coordination and monitoring, restricted practice), the Board may by written notice to respondent adopt any such restrictions or conditions as additional probation terms and conditions, violation of which shall be considered a violation of probation. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

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

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

**Option 1:** (Appropriate for those cases where evidence demonstrates use of alcohol or drugs.) Option language to be used in addition to standard language: Commencing on the effective date of this decision, respondent is suspended from practice and shall not practice as a(n) [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;
- One or more report(s) has concluded that respondent is safe to return to practice as a(n) [insert license type];
- The Board is satisfied that respondent is safe to return to practice as a(n) [insert license type]; and
- Respondent receives written notice from the Board that practice may resume.

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 suspension, respondent shall not enter any pharmacy area or any portion of any Board-licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not exercise any of the privileges

conveyed by the Board 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 dangerous devices or controlled substances.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board-licensed premise.

Failure to comply with any requirement, including any suspension or deadline stated by this term shall be considered a violation of probation.

**Option 2:** Option language to be used in addition to standard language when deemed appropriate: Commencing on the effective date of this decision, respondent is suspended from practice and shall not practice as a(n) [insert license type] until the evaluator recommends that respondent return to practice, this recommendation is accepted by the Board, and respondent receives written notice from the Board 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 suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not exercise any of the privileges conveyed by the Board 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 dangerous devices or controlled substances.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board-licensed premises.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

**Option 3:** If recommended by the evaluator, the Board may suspend respondent from practice as a(n) [insert license type] by providing written notice of suspension to the respondent. Upon suspension, respondent shall not resume practice as a(n) [insert license type] until: 1) another evaluation is done at respondent's expense by a licensed practitioner selected or approved by the Board; 2) the evaluator recommends that respondent return to practice; 3) the Board accepts the recommendation; and 4) 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 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 suspension, respondent shall not enter any pharmacy area or any portion of any Board-licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Respondent shall not exercise any of the privileges conveyed by the Board, 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 dangerous devices or controlled substances.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board-licensed premises.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

**21. Psychotherapy** (Appropriate for those cases where the evidence demonstrates psychiatric disorders (mental health issues, emotional disturbance, gambling addiction), alcohol or drug use was involved in the violation(s).)

Within thirty (30) days of the effective date of this decision, respondent shall submit to the Board, 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. Respondent shall sign a release authorizing the Board-approved mental health practitioner to furnish the Board with a current diagnosis and a written report regarding the respondent's ability to function independently as a(n) [insert license type] with no risk of harm to the public. 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 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 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 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 required by the Board.

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 or email within three (3) working days. Upon notification from the Board 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 suspension, respondent shall not enter any pharmacy area or any portion of any Board-licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Respondent shall not exercise any of the privileges conveyed by the Board 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 dangerous devices or controlled substances. Respondent shall not resume practice until notified by the Board.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board-licensed premises.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

**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, respondent shall undergo a medical evaluation, at respondent's own expense, by a Board-appointed or Board-approved health care practitioner who shall furnish a medical report to the Board. The approved practitioner shall be provided with a copy of the Board's [accusation, petition to revoke probation, or other pleading] and decision. A record of this notification must be provided to the Board upon request. Respondent shall sign a release authorizing the practitioner to furnish the Board with a current diagnosis and a written report regarding the respondent's ability to function independently as [insert license type] with no risk of harm to the public. If the practitioner recommends restrictions or conditions on respondent's practice, including but not limited to other terms and conditions listed in these guidelines (e.g., required mental health treatment, inpatient treatment, prescription coordination and

monitoring, restricted practice), the Board may by written notice to respondent adopt any such restrictions or conditions as additional probation terms and conditions, violation of which shall be considered a violation of probation.

If the physician recommends, and the Board directs, that respondent undergo medical treatment, respondent shall, within thirty (30) days of written notice from the Board, submit to the Board, for prior approval, the name and qualifications of a licensed health care practitioner 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 practitioner. Should respondent, for any reason, cease treatment with the approved practitioner, respondent shall notify the Board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement practitioner of respondent's choice to the Board 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 practitioner, respondent shall undergo and continue treatment with that practitioner, at respondent's own expense, until the treating practitioner recommends in writing to the Board, and the Board agrees by way of a written notification to respondent, that no further treatment is necessary. Upon receipt of such recommendation from the treating practitioner, and before determining whether to accept or reject said recommendation, the Board may require respondent to undergo, at respondent's own expense, a medical evaluation by a separate Board-appointed or Board-approved health care practitioner. If the approved evaluating practitioner recommends that respondent continue treatment, the Board may require respondent to continue treatment.

Respondent shall take all necessary steps to ensure that any treating practitioner 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.

If at any time an approved evaluating practitioner or respondent's approved treating practitioner determines that respondent is unable to practice safely or independently as a(n) [insert license type], the evaluating or treating practitioner shall notify the Board immediately by telephone and follow up by written letter or email within three (3) working days. Upon notification from the Board 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 suspension, respondent shall not enter any pharmacy area or any portion of any Board licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Respondent shall not exercise any of the privileges conveyed by the Board, 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 dangerous devices or controlled substances.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board-licensed premises.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

*(Option language to be used in addition to standard language when suspension is warranted until the evaluation is completed.)*

**Option 1:** Commencing on the effective date of this decision, respondent shall not engage in the practice as a(n) [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 approves said recommendation.

During this suspension, respondent shall not enter any pharmacy area or any portion of any Board licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Respondent shall not exercise any of the privileges conveyed by the Board 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 dangerous devices or controlled substances. Respondent shall not resume practice until notified by the Board.

During this suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board licensed premises.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

**23. Pharmacists Recovery Program (PRP)** (Appropriate for those cases where evidence demonstrates substance abuse or psychiatric disorders (mental health issues, emotional disturbance, gambling addiction or substance abuse or misuse)) (Pharmacists and Pharmacist Interns Only)

By no later than ten (10) days after 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 as well as 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). Respondent shall successfully participate in the PRP and complete the treatment contract and any addendums required or suggested by the PRP. 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(a)(2). Respondent shall successfully participate in and complete their current contract and any subsequent addendums with the PRP.

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

Any of the following shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation:

- Failure to contact, complete enrollment, and execute and return the treatment contract with the PRP, including any addendum(s), within ten (10) days of the effective date of the decision as directed by the PRP;
- Deemed unsafe to practice by an assessor in the PRP or medical evaluation;
- Failure to complete registration for any drug or alcohol testing mandated by the treatment contract and/or by the PRP, and begin compliance with the testing protocol(s), within ten (10) days of the effective date of the decision as directed by the PRP;
- Failure to comply with testing protocols regarding daily check-in and/or failure to complete a mandated test as directed by the PRP;
- Any report from the PRP of material non-compliance with the terms and conditions of the treatment contract and/or any addendum(s); or
- Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk.

Respondent may not resume the practice of pharmacy until notified by the Board in writing.

Probation shall be automatically extended until respondent successfully completes the PRP. The Board will provide notice of any such suspension or extension of probation.

During any suspension, respondent shall not enter any pharmacy area or any portion of any Board-licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not exercise any of the privileges conveyed by the Board 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 dangerous devices or controlled substances.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board-licensed premises.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

*(Option language to be used in addition to standard language when appropriate to ensure licensee works in an access position while being monitored.)*

**Option:** Respondent shall work in a pharmacy setting with access to controlled substances for six (6) consecutive months before successfully completing 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.

**24. Drug and Alcohol Testing** (Appropriate for those cases where the evidence demonstrates substance use.) (If this term is selected, Term No. 26 “Abstain from Drugs and Alcohol” should also be selected in any probationary order to effectively enforce abstention requirements.)

Respondent, at their own expense, shall participate in testing as directed by the Board for the detection of alcohol, controlled substances, and dangerous drugs and/or dangerous devices. Testing protocols may include biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other testing protocols as directed by the Board. All testing must be pursuant to an observed testing protocol, unless respondent is informed otherwise in writing by the Board. Respondent may be required to participate in testing for the entire probation period and frequency of testing will be determined by the Board.

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 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, 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.

Prior to any vacation or other period of absence from the area where the approved testing vendor provides services, respondent shall seek and receive approval from the Board to use an alternate testing vendor to ensure testing can occur. Upon approval, respondent shall enroll and register with the approved alternate drug testing vendor, and provide to that alternate vendor any documentation required by the vendor, including any necessary payment by respondent. During the period of absence of the 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 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 of an illicit drug, controlled substance or dangerous drug, the Board 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(n) [insert license type] until notified by the Board in writing that they 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 refrain from alcohol; 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 drug that contains alcohol, without a prescription, or of an illicit drug, 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 drug that contains alcohol, without a valid prescription, an illicit drug, 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 shall inform respondent of the suspension and inform them to immediately leave work, and shall notify respondent's employer(s) and work site monitor(s) of the suspension.

During any such suspension, respondent shall not enter any pharmacy area or any portion of any Board-licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not exercise any of the privileges by the Board 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 dangerous devices and controlled substances.

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board-licensed premises.

Failure to comply with any such suspension shall be considered a violation of probation. Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

## **25. Notification of Departure**

Within three (3) business days prior to leaving the probationary geographic area designated by the Board 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.

## **26. Abstain from Drugs and Alcohol**

(Appropriate for those cases where the evidence demonstrates substance use.)

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a necessary part of treatment. Respondent shall ensure that they are 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 and/or dangerous devices or controlled substances, or their associated paraphernalia for which a legitimate prescription has not been issued as a necessary part of treatment, or any physical proximity to persons using illicit substances, shall be considered a violation of probation. Respondent shall sign an acknowledgment confirming receipt of a list of examples of prohibited substances.

**27. Prescription Coordination and Monitoring of Prescription Use** (Appropriate for those cases where the evidence demonstrates substance use or psychiatric disorders (mental health issues, 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 practitioner of respondent's choice, who shall be aware of the respondent's history [with the use of alcohol, illicit drugs, controlled substances, and/or dangerous drugs, and/or of mental health issues, and/or of gambling addiction] and who will coordinate and monitor any prescriptions for respondent for dangerous drugs and/or dangerous devices, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the Board's [accusation, petition to revoke probation, or other pleading] 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 about respondent's treatment(s). The coordinating practitioner 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 may require that the single coordinating practitioner 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 immediately and, within thirty (30) days of ceasing supervision, submit the name of a replacement practitioner of respondent's choice to the Board for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the Board for approval, or to ensure the required quarterly reporting thereby, 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(n) [insert license type], the practitioner shall notify the Board immediately by telephone and follow up by written letter or email within three (3) working days. Upon notification from the Board of this determination, respondent shall be automatically suspended and shall not resume practice as a(n) [insert license type] until notified by the Board that practice may be resumed.

During suspension, respondent shall not enter any pharmacy area or any portion of any Board-licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not exercise any of the privileges conveyed by the Board 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 dangerous devices and controlled substances. Respondent shall not resume practice until notified by the Board.

During suspension, respondent shall not engage in any activity that requires the professional judgment and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board-licensed premises.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

**28. Facilitated Group Recovery and/or Support Meetings** (Appropriate for those cases where the evidence demonstrates substance use. Pharmacists and Pharmacist Interns Only)

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. The required frequency of group meeting attendance shall be determined by the Board. Respondent shall continue regular attendance as directed at an approved facilitated group meeting until the Board advises the respondent in writing that they may cease regular attendance. 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.

If respondent is required to participate in the PRP, compliance with this term can be demonstrated through that program. Where respondent is enrolled in the PRP, participation as required in a facilitated group meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any deviation from participation requirements for the PRP-approved group shall be considered a violation of probation.

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

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. Respondent must attend the number of group meetings per week or month directed by the Board, which shall typically be at least one per week. 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.

Where respondent is enrolled in the PRP, participation as required in a recovery group meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any deviation from participation requirements for the PRP-approved group shall be considered

a violation of probation.

**30. Work Site Monitor** (Appropriate for those cases where the evidence demonstrates substance use.)

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 monthly or on another schedule as directed by the Board. Should the designated work site monitor suspect at any time during the probationary period that respondent has abused alcohol or drugs, they shall notify the Board immediately.

In the event of suspected abuse, the monitor shall make at least oral notification 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. 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.

Within thirty (30) days of being approved by the Board, the work site monitor shall sign an affirmation that they have reviewed the terms and conditions of respondent's disciplinary order and agree 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;
- 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 by the work site monitor shall include at least the following information: respondent's name and license number; the monitor's name, license number 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 the required consent forms and sign an agreement with the work site monitor and the Board to allow the Board to communicate with the work site monitor.

**Option (Alternate language that is appropriate 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 they are 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, they shall notify the PRP immediately. The initial notification shall be made orally

within one (1) business day of the occurrence, which 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 of commencing new employment for prior approval by the PRP, respondent must identify an acceptable replacement work site monitor. 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.

Within thirty (30) days of being approved by the PRP, the work site monitor shall sign an affirmation that they have reviewed the terms and conditions of respondent's disciplinary order and agree 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;
- 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 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 the required consent forms and sign an agreement with the work site monitor and the Board to allow the Board to communicate with the work site monitor.

### **31. Community Services Program**

Within sixty (60) days of the effective date of this decision, respondent shall submit to the Board, 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 demonstrating commencement of the community service program. 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 upon request. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

### **32. 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.

### **33. Remedial Education**

Within [thirty (30), sixty (60), ninety (90)] days of the effective date of this decision, respondent shall submit to the Board, 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 successfully completed by respondent 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. For the purposes of this section, "successfully completed" shall mean respondent personally attended each educational program or course ("course") and completed all required course hours and work as determined by the remedial education provider, including the taking and passing of any required examination(s).

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.

Following the completion of each course, the Board may require the respondent, at their 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, as determined by the provider, on the examination that course shall not count towards satisfaction of this term. Respondent shall 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.

### **34. Ethics Course (Pharmacists, Advanced Practice 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 that complies with Title 16 California Code of Regulations section 1773.5. Within five (5) days of enrollment, respondent shall provide proof of enrollment to the Board. Within five (5) days of completion, respondent shall submit a copy of the certificate of completion to the Board. Failure to timely enroll in an approved ethics course, to initiate the course during the first year of probation, to successfully complete it before the end of the second year of probation, or to timely submit proof of completion to the Board, shall be considered a violation of probation.

### **35. Supervised Practice (See Option for Pharmacy Technicians.)**

Within thirty (30) days of the effective date of this decision, respondent shall submit to the Board, 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 they have read the decision in case number [insert case number], and are familiar with the terms and conditions imposed



thereby, including the level of supervision required by the Board. This level will be determined by the Board, 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, 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 they have read the decision in case number [insert case number], and are familiar with the terms and conditions imposed thereby, including the level of supervision required.

Any of the following shall result in the automatic suspension of practice by a respondent and shall be considered a violation of probation:

- Failure to nominate an initial practice supervisor, and to have that practice supervisor report to the Board in writing acknowledging the decision, terms and conditions, and supervision level, within thirty (30) days;
- Failure to nominate a replacement practice supervisor, and to have that practice supervisor report to the Board in writing acknowledging the decision, terms and conditions, and supervision level, within ten (10) days;
- Practicing in the absence of an approved practice supervisor beyond the initial or replacement nomination period; or
- Any failure to adhere to the required level of supervision.

Respondent shall not resume practice until notified in writing by the Board.

During any suspension, respondent shall not enter any pharmacy area or any portion of any Board licensed premises where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not exercise any of the privileges conveyed by the Board 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 dangerous devices or controlled substances.

During any suspension, respondent shall not engage in any activity that requires the professional judgment and/or licensure as a(n) [insert license type]. Respondent shall not direct or control any aspect of any Board-licensed premises.

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

**Option: (For Pharmacy Technicians Only)**

Within thirty (30) days of the effective date of this decision, respondent shall submit to the Board, for prior approval, the name of a pharmacist 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 they have read the decision in case number [insert case number], and are familiar with the terms and conditions imposed thereby, including the level of supervision required by the Board. Respondent may have multiple supervisors approved by the Board if necessary to meet respondent's work requirements.

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. If any of these obligations or prohibitions is not met, respondent shall be prohibited from practice as a(n) [insert license type] and may not resume such practice until notified by the Board in writing.

**36. No Ownership or Management of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, 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 (To be used in place of the standard language in those circumstances where respondent is permitted to continue existing ownership of a licensed entity):**

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.

**37. Separate File of Controlled Substances Records (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.

**38. Report of Controlled Substances (Pharmacist owners and pharmacists-in-charge)**

Respondent shall submit reports to the Board detailing the total acquisition and disposition of such controlled substances as the Board 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. 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. Failure to timely prepare or submit such reports shall be considered a violation of probation.

**39. No Access to Controlled Substances**

During the period of probation and as directed by the Board, 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 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.

**40. Criminal Probation/Parole Reports**

Within ten (10) days of the effective date of this decision, or within ten (10) days of the issuance or assignment/replacement of same, whichever is earlier, respondent shall provide the Board in writing: a copy of the conditions of any criminal probation/parole applicable to respondent; and the name and contact information of any probation, parole or similar supervisory officer assigned to respondent. Respondent shall provide a copy of all criminal probation/parole reports to the Board within ten (10) days after such report is issued. Failure to timely make any of the submissions required hereby shall be considered a violation of probation.

**41. Board's One-Day Training Program**

Within the first year of probation, respondent shall enroll in the Board's one-day, six (6) hour training program, "*Preventing Prescription Drug Abuse and Drug Diversion.*" Respondent shall provide proof of enrollment within five (5) days of enrollment. Within five (5) days of completion of this training program, respondent shall submit a copy of the certificate of completion to the Board. Failure to enroll in and successfully complete the training program before the end of the second year of probation, or to timely submit proof of completion to the Board as required by this section, shall be considered a violation of probation.

**42. Surrender of DEA Permit (Pharmacists, Advanced Practice Pharmacists, and Pharmacist Interns Only)**

Within thirty (30) days of the effective date of this decision, respondent shall surrender their federal Drug Enforcement Administration (DEA) permit to the DEA, for cancellation. Respondent shall provide documentary proof of such cancellation to the Board. Respondent is prohibited from dispensing, furnishing, or otherwise providing dangerous drugs and/or dangerous 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.

**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.

### **43. Administrative Fine**

Respondent shall pay an administrative fine to the Board in the amount of \_\_\_\_\_. Respondent shall have [insert timeframe] from the effective date of this Decision and Order to pay the administrative fine. Failure to pay the administrative fine as ordered shall be considered a violation of probation.

## **TERMS OF PROBATION – 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.

For those licenses issued to premises 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 least serious (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.

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 presume a single violation. For multiple violations, the appropriate penalty shall increase accordingly. Moreover, if respondent 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; two years probation. All standard terms and conditions shall be included and the disciplinary order may include optional terms and conditions, as appropriate.

Maximum: Revocation

Category I discipline is recommended for violations which are less serious than Categories II through IV but are potentially harmful:

- violation(s) of recordkeeping 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 and/or dangerous devices or controlled substances;
- violation(s) of packaging requirements, security control requirements, or reporting requirements;
- failure(s) to display original license(s), or to supply name(s) of owner(s), manager(s), or employee(s);
- violation(s) involving the improper compounding of drug products; and
- institution or use of policies or procedures that are in violation of laws or regulations governing pharmacy.

## **CATEGORY II**

Minimum: Revocation; Revocation stayed, three years probation (five years probation where self-administration or diversion of dangerous drugs and/or dangerous devices or controlled substances occurred at the licensed premises). All standard terms and conditions shall be included and the disciplinary order 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 and/or dangerous devices or controlled substances, violations that reflect on ethics, competency, or diligence, and criminal convictions not involving alcohol, dangerous drugs and/or dangerous 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 and/or dangerous devices or controlled substances;
- violation(s) of laws governing dangerous drugs and/or dangerous devices and controlled substances, including smaller cases of diversion or self-administration;
- unlawful possession(s) of dangerous drugs and/or dangerous devices, controlled substances, hypodermic needles or syringes, or drug paraphernalia;
- smaller scale dispensing or furnishing of dangerous drugs and/or dangerous devices via the internet, without a valid prescription;
- purchasing, trading, selling, or transferring dangerous drugs and/or dangerous 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 failure(s) to provide patient consultation;
- 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 and/or dangerous devices or controlled substances;
- violating, assisting in, or abetting violation of, or conspiring to violate the laws and regulations governing pharmacy;
- subverting or attempting to subvert an investigation conducted by the Board; and
- repeat or serious violation(s) involving the improper compounding of drug products.

### **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 and/or dangerous devices or controlled substances, or abusive use of alcohol, occurred at the licensed premises). All standard terms and conditions shall be included and the disciplinary order may include optional terms and conditions, as appropriate. For a licensed premises, a minimum of 14-28 days actual suspension.

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 and/or dangerous devices or controlled substances, and most criminal convictions involving alcohol, dangerous drugs and/or dangerous devices 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 Drug Supply Chain Security Act requirements;
- 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 and/or dangerous devices, controlled substances, hypodermic needles or syringes, or drug paraphernalia;
- larger scale dispensing or furnishing of dangerous drug(s) and/or dangerous device(s) via the internet, without valid prescription(s);
- purchasing, trading, selling, or transferring adulterated, misbranded, or expired dangerous drug(s) and/or dangerous device(s);
- removal, sale, or disposal of embargoed dangerous drug(s) and/or dangerous device(s);
- failing to maintain record(s) of acquisition and disposition of dangerous drug(s) and/or dangerous 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) and/or dangerous 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;
- violation(s) involving providing or offering to provide controlled substance(s) to addict(s); and
- repeat or serious violation(s) involving the improper compounding of drug products.



## **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 and/or dangerous 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 and/or dangerous devices, or controlled substances; and
- repeat or serious example(s) of conduct described in Category I, Category II, or Category III.

Revocation is also recommended where a respondent fails to file a notice of defense to a pleading requiring a timely notice of defense 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.

## **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 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 and/or dangerous devices or controlled substances and dangerous drugs and/or dangerous devices. Respondent shall further arrange for the transfer of all records of acquisition and disposition of dangerous drugs to premises licensed and approved by the Board. Respondent 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.

Respondent 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 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 operations as a(n) [insert license type] during the period of suspension. Failure to comply with this 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 on 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 on the following terms and conditions:

### **Surrender**

Respondent surrenders license number \_\_\_\_\_ as of the effective date of this decision. Respondent 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 understands and agrees that for purposes of Business and Professions Code section 4307, this surrender shall be treated as if their license was revoked.

Respondent 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 and approved by the Board of all controlled substances and dangerous drugs and/or dangerous devices. Respondent shall further arrange for the transfer of all records of acquisition and disposition of dangerous drugs to premises licensed and approved by the Board. Respondent shall further provide written proof of such disposition and submit a completed Discontinuance of Business form according to Board guidelines.

Respondent may only seek a new or reinstated license from the Board by way of a new application for licensure. Respondent shall not be eligible to petition for reinstatement of licensure.

Respondent may not reapply for any license from the Board for three (3) years from the effective date of this decision. Respondent stipulates that should they 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 further stipulates that they shall reimburse the Board for its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_ within \_\_\_\_\_ days of the effective date of this decision.

(To be included if the respondent is a pharmacy.) Respondent 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 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.

**Option 2:** Respondent stipulates that should they 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 Reproval**

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

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

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

**OPTIONAL CONDITIONS**

17. Suspension
18. Community Services Program
19. Restitution
20. Separate File of Records
21. Report of Controlled Substances
22. Surrender of DEA Permit
23. Posted Notice of Suspension
24. Destruction of Dangerous Drugs and/or Dangerous Devices
25. No Additional Ownership or Management of Licensed Premises
26. Administrative Fine
27. Consultant Review of Facility Operations

## **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]. 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 shall be made by an owner or executive officer with authority to act on behalf of and legally bind the licensed entity.

### **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, information, or indictment;
- a plea of guilty, or nolo contendere, no contest, or similar, 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.

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. 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 for interviews with the Board, at such intervals and locations as are determined by the Board. 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 during the period of probation, shall be considered a violation of probation.

## 5. 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 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.

## 6. 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. 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, so long as full payment is completed no later than one (1) year prior to the end date of probation.

## 7. 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.

**Option** (additional language to be used for out-of-state premises): Probation monitoring costs include travel expenses for an inspector to personally inspect the out-of-state premises on a schedule as determined by the Board.

## 8. Status of License

Respondent shall, at all times while on probation, maintain a current [insert license type] with 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.

## 9. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent wish to discontinue business, respondent may tender the premises license to the Board for surrender. The Board 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.

Respondent may not apply for any new 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.

Respondent further stipulates that it shall reimburse the Board for its costs of investigation and prosecution prior to the acceptance of the surrender.

**OPTION:** Upon acceptance of the surrender, respondent 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 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 shall further arrange for the transfer of all records of acquisition and disposition of dangerous drugs and/or devices to premises licensed and approved by the Board.

Respondent 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 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 may not apply for any new 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.

Respondent further stipulates that 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, or should practice at that location be assumed by another full or partial owner, person, firm, business, or entity, under the same or a different premises license number, the Board 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 of the new owner.

## **11. Notice to Employees**

Respondent 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 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 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 timely provide such notification to employees, or to timely 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.

## **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 all of its 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(n) [insert license type] in California for a minimum of [insert number] 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 respondent is informed otherwise in writing by the Board.

If respondent is not open and engaged in its ordinary business as a(n) [insert license type] for a minimum of [insert number] 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 within ten (10) days following the next calendar month during which respondent is open and engaged in its ordinary business as a(n) [insert license type] in California for a minimum of [insert number] hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

#### **14. Posted Notice of Probation**

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

In addition, respondent shall prominently post a probation notice, similar to that provided by the Board, on respondent's website in a place that is likely to be frequented by California consumers and health care providers.

Respondent 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.

**Option** (include additional language for mail order pharmacies): Respondent shall also provide a copy of the notice of probation in all shipments to and within California.

#### **15. 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 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. The Board shall post a notice of the automatic extension of the probation period on its website.

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. If a petition to revoke probation or an accusation is filed against respondent during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, 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.

## **16. Completion of Probation**

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

## **OPTIONAL CONDITIONS OF PROBATION**

### **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(n) [insert license type] during the period of suspension. Failure to comply with this suspension shall be considered a violation of probation.

### **18. Community Services Program**

Within sixty (60) days of the effective date of this decision, respondent shall submit to the Board, 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 shall submit documentation to the Board demonstrating commencement of the community service program. Respondent 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.

### **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 shall pay restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. Failure to make restitution by this deadline shall be considered a violation of probation.

### **20. Separate File of Controlled Substances Records**

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.

### **21. Report of Controlled Substances**

Respondent shall submit reports to the Board detailing the total acquisition and disposition of such controlled substances as the Board 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. 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. Failure to timely prepare or submit such reports shall be considered a violation of probation.

## **22. Surrender of DEA Permit**

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

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

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

## **23. Posted Notice of Suspension**

Respondent 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. 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 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.

## **24. Destruction of Dangerous Drugs and/or Dangerous Devices [To be used when the violations include misbranded or adulterated drugs.]**

Respondent shall, by the effective date of this decision, arrange for the destruction of all dangerous drugs and/or dangerous devices or controlled substances and dangerous drugs and devices by a waste management company or reverse distributor. All products must be inventoried with an exact count prior to destruction. Respondent shall provide written proof of such destruction within five (5) days of disposition.

Option: [To be used when the integrity, quality and strength of compounded drug products is at issue]

Respondent shall, by the effective date of this decision, arrange for the destruction of all compounded drug products and the components used to compound drug products by a waste management company. Respondent shall provide written proof of such destruction within five (5) days of disposition. The Board shall have the right to retain a sample(s) of

any and all compounded drug products or components used to compound drug products by Respondent.

## **25. No Additional Ownership or Management of Licensed Premises**

Respondent shall not acquire any additional ownership, legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, associate, partner or any business, firm, partnership, or corporation currently or hereinafter licensed by the Board, except as approved by the Board. Violations of this restriction shall be considered a violation of probation.

## **26. Administrative Fine**

Respondent shall pay an administrative fine to the Board in the amount of \_\_\_\_\_. Respondent shall have [insert timeframe] from the effective date of this Decision and Order to pay the administrative fine. Failure to pay the administrative fine as ordered shall be considered a violation of probation.

## **27. Consultant Review of Facility Operations**

Respondent shall retain, at its own expense, an independent consultant who shall review the operations of the facility, during the period of probation, on a [monthly/quarterly] basis for compliance of the facility with state and federal laws and regulations governing the practice of pharmacy, and compliance by respondent. The consultant shall provide the Board with an inspection agenda for approval prior to conducting the inspection. Any inspection conducted without prior approval of the inspection agenda shall not be accepted as complying with this term of probation. The consultant shall also provide the Board with reports documenting the inspection. The reports shall be provided directly to the Board, and the consultant shall receive confirmation from the Board that the Board received the report, prior to the consultant providing a copy of the report to the respondent. Should the Board determine that the consultant is not appropriately assessing the operations of respondent, or providing the appropriate written reports, the Board shall require respondent to obtain a different consultant, through the same process outlined above, by submitting to the Board a new name of an expert within sixty (60) days of respondent being notified of the need for a new consultant. During the period of probation, the Board shall retain discretion to reduce the frequency of the consultant's review.

Respondent shall submit the name of the proposed consultant to the Board for approval within thirty (30) days of the effective date of this decision. The consultant shall be a pharmacist who holds a current, active, and unrestricted license with the Board, or other professional as appropriate, and not on probation with the Board, who has been approved by the Board to serve in this position. The consultant shall have education, training, and professional experience to be able to provide guidance to respondent related to the causes for discipline in Case No. \_\_\_\_\_. Assumption of any unauthorized supervision responsibilities shall be considered a violation of probation.

Failure to timely seek approval for, timely retain, or ensure timely reporting by the consultant in compliance with this section shall be considered a violation of probation.