

## **STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS**

### **4.1. Certification Prior to Resuming Work**

Respondent shall be automatically suspended from working as a pharmacy technician until he or she is certified by the ~~Pharmacy Technician Certification Board (PTCB)~~ as defined by Business and Professions Code section 4202(a)(4) and provides satisfactory proof of certification to the board. Failure to achieve certification within one (1) year shall be considered a violation of probation.

During suspension, respondent shall not enter any pharmacy area or any portion of any other board the licensed premises of a (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) which is licensed by the board, or any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained.

Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, ~~or be a consultant to or assist~~ any licensee of the board, Respondent shall not or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not resume work until notified by the board.

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

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

### **2.2. Obey All Laws**

Respondent shall obey all state and federal laws and regulations ~~substantially related to or governing the practice of pharmacy.~~

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

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

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

### **3.3. Reporting to the Board**

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other

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

#### **4.4. Interview with the Board**

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

#### **5.5. Cooperation with Board Staff**

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

## **6.6. Notice to Employers**

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

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

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

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

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

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

## **7.7. Reimbursement of Board Costs**

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

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

**Option:** If respondent fails to make any payment by the directed deadline(s), the stay shall

terminate and the license shall be revoked without further notice or opportunity to be heard.

#### **8.8. Probation Monitoring Costs**

Respondent shall pay the 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 at the end of each year of probation on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

#### **9.9. Status of License**

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

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

#### **10. License Surrender While on Probation/Suspension**

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

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

#### **10.11. Notification of a Change in Name, Residence Address, Employment/Mailing Address or Employment Change**

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

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

#### **41.12. Tolling of Probation**

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

It is a violation of probation for respondent to work less than \_\_\_\_\_ hours per month as a pharmacy technician/exemptee. Should respondent, regardless of residency, for any reason (including vacation) cease practicing working as a pharmacy technician or an exemptee for a minimum of \_\_\_\_\_ hours per calendar month in California, respondent must notify the board in writing within ten (10) days of cessation of practice work and must further notify the board in writing within ten (10) days of or the resumption of the practice work. Such periods of time shall not apply to the reduction of the probation period. Any failure to provide such notification(s) shall be considered a violation of probation.

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

"Cessation of practicework" means any period of time exceeding 30 days calendar month during in which respondent is not engaged in the practice of working for at least \_\_\_\_\_ hours as a pharmacy technician, as defined in section \_\_\_\_\_ of the Business and Professions Code section 4115. "Resumption of work" means any calendar month during which respondent is working as a pharmacy technician for at least \_\_\_\_\_ hours as a pharmacy technician as defined by Business and Professions Code section 4115.

#### **42.13. Violation of Probation**

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

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

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

~~impose the penalty which was stayed.~~

### **13.14. Completion of Probation**

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

### **14. License Surrender While on Probation/Suspension**

~~Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her 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.~~

~~Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three 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.~~

## **OPTIONAL CONDITIONS OF PROBATION**

### **1. Actual Suspension**

As part of probation, respondent is suspended from the duties of a pharmacy technician for \_\_\_\_\_ beginning the effective date of this decision.

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

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

~~During suspension, respondent shall not perform any of the duties of a pharmacy technician as provided by Section 1793.2 of the California Code of Regulations.~~

### **2.15. No Ownership of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,

administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

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

### **3-16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups** (Appropriate for those cases with chemical dependency (alcohol, drugs))

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

### **4.17. Random Drug Screening** (Appropriate for those cases with chemical dependency (alcohol, drugs))

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

During suspension, respondent shall not enter any pharmacy area or any portion of or any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor

of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not resume work until notified by the board.

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

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

**5-18. Work Site Monitor** (Appropriate for those cases with chemical dependency (alcohol, drugs))

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

**6-19. Notification of Departure** (Appropriate for those cases with chemical dependency (alcohol, drugs))

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

**7-20. Abstain from Drugs and Alcohol Use** (Appropriate for those cases with chemical dependency (alcohol, drugs))

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

respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

## **8.21. Tolling of Suspension**

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

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

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

~~Respondent shall not act as a pharmacy technician upon returning to this state until notified by the board that the period of suspension has been completed.~~

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

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

## **EXEMPTEE DESIGNATED REPRESENTATIVE**

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

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

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

~~An exemptee would be required to be reexamined by the board prior to resuming work as an exemptee.~~

## **TERMS OF PROBATION -- EXEMPTEE DESIGNATED REPRESENTATIVE**

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

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

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

## **CATEGORY OF VIOLATIONS AND RECOMMENDED PENALTIES**

### **CATEGORY III - Penalty**

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

Maximum: Revocation

Applies to all applicable statutes and regulations

## MODEL DISCIPLINARY LANGUAGE -- EXEMPTEE DESIGNATED REPRESENTATIVE

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

### **Revocation -- ~~Single Cause~~**

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

~~A condition of reinstatement shall be that the respondent retake the exemption certification examination.~~

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

~~**Option:** As a condition precedent to Upon reinstatement of his or her revoked designated representative license certification respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_. ~~and said amount shall be paid in full prior to the reinstatement of his or her certification~~ revoked designated representative license, unless otherwise ordered by the board. ~~If the respondent fails to pay the amount specified, his or her certification shall remain revoked.~~~~

### **Revocation -- Multiple Causes**

~~Certification number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked pursuant to Determination of Issues \_\_\_\_\_, separately and together. Respondent shall relinquish his or her pocket certification to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked certification for three years from the effective date of this decision. A condition of reinstatement shall be that the respondent retake the exemption certification examination.~~

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

~~**Option:** Upon reinstatement of his or her certification respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_, and said amount shall be paid in full prior to the reinstatement of his or her certification. If the respondent fails to pay the amount specified, his or her certification shall remain revoked.~~

### **Suspension -- Single Cause**

As part of probation, Certification number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is suspended from working as a designated representative for \_\_\_\_\_ beginning the effective date of this decision a period of \_\_\_\_\_. Respondent shall not resume work until notified by

the board.

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

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

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

## **Suspension – Multiple Causes**

Certification number \_\_\_\_\_, issued to respondent is suspended for a period of \_\_\_\_\_ pursuant to Determination of Issues \_\_\_\_\_, separately and together. All suspensions shall run concurrently. Respondent is suspended from the duties of an exemptee for \_\_\_\_\_ beginning the effective date of this decision.

## **Standard Stay/Probation Order**

Designated representative license Certification-number \_\_\_\_\_ issued to \_\_\_\_\_ is revoked; however, the revocation is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

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

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

## **Surrender**

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

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

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

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

~~Respondent shall meet all requirements applicable to that certification as of the date the application is submitted to the board, including, but not limited to exemptee reexamination prior to the issuance of a new registration or certification.~~

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

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

**Public Reprimand**

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

## **Adoption of Stipulation**

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

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

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

- 1. ~~\_\_\_\_\_~~ Certification Prior to Resuming Work
- ~~5.1. \_\_\_\_\_~~ Obey aAll Laws
- ~~6.2. \_\_\_\_\_~~ Reporting to the Board
- ~~7.3. \_\_\_\_\_~~ Interview with the Board
- ~~5. \_\_\_\_\_~~ ~~4. \_\_\_\_\_~~ Cooperatione with Board Staff
- ~~6. \_\_\_\_\_~~ ~~5. \_\_\_\_\_~~ Notice to Employers
- ~~6. \_\_\_\_\_~~ No Being Designated Representative-in-Charge
- ~~9.7. \_\_\_\_\_~~ Reimbursement of Board Costs
- ~~10.8. \_\_\_\_\_~~ Probation Monitoring Costs
- ~~15.9. \_\_\_\_\_~~ Status of License
- ~~10. \_\_\_\_\_~~ License Surrender While on Probation/Suspension
- ~~16.11. \_\_\_\_\_~~ Notification of a Change in Name, Residence Address, Employment/Mailing Address or  
Employment Change
- ~~17.12. \_\_\_\_\_~~ Tolling of Probation
- ~~18.13. \_\_\_\_\_~~ Violation of Probation
- ~~19.14. \_\_\_\_\_~~ Completion of Probation
- ~~20. \_\_\_\_\_~~ License Surrender While on Probation/Suspension

**OPTIONAL CONDITIONS**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

- ~~1. \_\_\_\_\_~~ Actual Suspension
- ~~2.15. \_\_\_\_\_~~ No Ownership of Licensed Premises
- ~~3.16. \_\_\_\_\_~~ Attend Substance Abuse Recovery Relapse Prevention and Support Groups
- ~~4.17. \_\_\_\_\_~~ Random Drug Screening
- ~~5.18. \_\_\_\_\_~~ Work Site Monitor
- ~~6.19. \_\_\_\_\_~~ Notification of Departure
- ~~7.20. \_\_\_\_\_~~ Abstain from Drugs and Alcohol Use
- ~~8.21. \_\_\_\_\_~~ Tolling of Suspension
- ~~22. \_\_\_\_\_~~ Restitution

## STANDARD CONDITIONS - TO BE INCLUDED IN ALL PROBATIONS

### 1. ~~Reexamination Prior to Resuming Work~~

~~Respondent shall be suspended from working as an exemptee until he or she takes and passes the exemption examination as scheduled by the board after the effective date of this decision.~~

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

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

### 2.1. Obey All Laws

~~Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.~~

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

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

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

### 3.2. Reporting to the Board

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

~~automatically~~ until such time as the final report is made and accepted by the board.

#### **4.3. Interview with the Board**

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

#### **5.4. Cooperation with Board Staff**

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

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## **6.5. Notice to Employers**

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

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

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

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

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

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

## **6. No Being Designated Representative-in-Charge**

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

## **7. \_\_\_\_\_ Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_. Respondent shall make said payments as follows: \_\_\_\_\_. There shall be no deviation from this schedule

absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

**Option:** If respondent fails to make any payment by the directed deadline(s), the stay shall terminate and the license shall be revoked without further notice or opportunity to be heard.

## **8. \_\_\_\_\_–Probation Monitoring Costs**

Respondent shall pay ~~the 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 ~~at the end of each year of probation~~ on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

## **9. \_\_\_\_\_–Status of License**

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

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

## **10. License Surrender While on Probation/Suspension**

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

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

## **10.11. Notification of a Change in Name, Residence Address, Employment/Mailing Address or Employment Change**

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

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

#### **44.12. Tolling of Probation**

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

It is a violation of probation for respondent to work less than \_\_\_\_\_ hours per month as an exemptee. Should respondent, regardless of residency, for any reason (including vacation) cease practicing working as an exemptee designated representative for a minimum of \_\_\_\_\_ hours in California, respondent must notify the board in writing within ten (10) days of cessation of practice work and must further notify the board in writing within ten (10) days of ~~or~~ the resumption of the practice work. Any failure to provide such notification(s) shall be considered a violation of probation. Such periods of time shall not apply to the reduction of the probation period.

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

"Cessation of practice work" means any period of time exceeding 30 days calendar month during in which respondent is not engaged in the practice of a pharmacy technician working as a designated representative for at least \_\_\_\_\_ hours as a designated representative as defined in section \_\_\_\_\_ of the by Business and Professions Code section 4053 or as an exemptee as defined in section \_\_\_\_\_ of the Business and Professions Code. "Resumption of work" means any calendar month during which respondent is working as a designated representative for at least \_\_\_\_\_ hours as a designated representative as defined by Business and Professions Code section 4053.

#### **42.13. Violation of Probation**

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

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order ~~which that was~~ stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If

a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended, until the petition to revoke probation or accusation is heard and decided.

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

#### **13.14. Completion of Probation**

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

#### **14. License Surrender while on Probation/Suspension**

~~Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her 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.~~

~~Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three 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.~~

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## OPTIONAL CONDITIONS OF PROBATION

### 1. Actual Suspension

As part of probation, respondent is suspended from the duties of a pharmacy technician for \_\_\_\_\_ beginning the effective date of this decision.

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

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

During suspension, respondent shall not perform any of the duties of a pharmacy technician as provided by Section 1793.2 of the California Code of Regulations.

### 2.15. No Ownership of Licensed Premises

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

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

### 3.16. Attend Substance Abuse Recovery Relapse Prevention and Support

**Groups** (Appropriate for those cases with chemical dependency (alcohol, drugs))

Within thirty (30) days of the effective date of this decision, respondent shall begin regular attendance at a board-approved recognized and established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous, Cocaine Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent must attend at least one group

meeting per week unless otherwise directed by the board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

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

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

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

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

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

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

Within ten (10) days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board, who shall be responsible for supervising respondent during working hours. Respondent shall be responsible for ensuring that the work site monitor shall report reports in writing to the board quarterly. Should the designated work site monitor determine at any time during the probationary period that respondent has not maintained sobriety, he or she shall notify the board immediately, either orally or in writing as directed.

Should respondent change employment, a new work site monitor must be designated, for prior approval by the board, within ten (10) days of commencing new employment. Failure to identify an acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be considered a violation of probation.

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

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

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

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

## 8.21. Tolling of Suspension

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

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

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

~~Respondent shall not act as a pharmacy technician upon returning to this state until notified by the board that the period of suspension has been completed.~~

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

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

## TERMS OF PROBATION – PREMISES

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

Probation conditions are divided into two categories: (1) standard conditions that shall appear in ~~all~~ 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 ~~specifies the~~ identifies offenses for which the board may take disciplinary action against a license. ~~The following are categories of violations used by the board in determining appropriate disciplinary penalties.~~ Included among grounds for discipline are violations of the Pharmacy Law itself, violations of regulations promulgated by the board, and violations of other state or federal statutes or regulations.

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

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

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

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

## CATEGORY I

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

Maximum: Revocation

Category I discipline is recommended for:

- violations which are relatively minor but are potentially harmful
- repeated violations of a relatively minor nature:

Violations of the following codes are as follows representative of this category:

## BUSINESS AND PROFESSIONS CODE

### Article 3. Scope of Practice and Exemptions

4053	<del>Exemptee Supervisor of Manufacturers, etc.: Requirements</del> <u>Wholesalers, and Licensed Laboratories; Veterinary Food-Animal Drug Retailers</u>
4054	<del>Supplying Dialysis Drugs</del> <u>Supply by Manufacturer, etc. of Certain Dialysis Drugs and Devices</u>
4056	<del>Exempt Hospitals</del> <u>Purchase of Drugs at Wholesale – Hospital Containing 100 Beds or Less</u>
4057	<del>Exempt Articles</del> <u>Exceptions to Application of this Chapter</u>
4058	<del>License to be Displayed</del> <u>Display of Original License</u>
4062	<del>Furnishing Drugs during Emergency</del> <u>Furnishing Dangerous Drugs During Emergency</u>
4064	<u>Emergency Refills of Prescription Without Prescriber Authorization</u>
4065	<del>Administration through Injection Card System</del> <u>Injection Card System; Requirements for Administration</u>
4066	<del>Furnishing to Ocean</del> <u>Dangerous Drugs to Master or First Officer of Vessel</u>

### Article 4. Requirements for Prescription

4070	<u>Reduction of Oral or Electronic Prescription to Writing</u>
4071	<del>Prescriber's</del> <u>May Authorize Agent to Transmitting Prescriptions; Schedule II Excluded</u>
4072	<del>Oral or Electronic Transmitting</del> <u>Transmission of Prescriptions from a - Health Care Facility</u>
4073	<del>Substitution of Generic Drug Product Selection-</del> <u>Requirements and Exceptions</u>
4074	<del>Drug Warnings</del> <u>Risk: Informing Patient; Providing Consultation for Discharge Medications</u>
4076	<del>Prescription Container - Label</del> <u>Requirements for Labeling</u>
4077	<del>Labeling</del> <u>Dispensing Dangerous Drug in Incorrectly Labeled Container</u>

### Article 5. Authority of Inspectors

4082	<del>Information about Personnel</del> <u>Names of Owners, Managers and Employees Open for Inspection</u>
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## Article 6. General Requirements

- 4100 Change of Name or Address or Name – Notification to Board
- 4102 Skin Puncture for Patient Training
- 4103 Blood Pressure Measurement- Taking by Pharmacist

## Article 7. Pharmacies

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

## Article 9. Hypodermic Needles and Syringes

- 4141 Furnishing Without License Required
- 4142 Prescription Required
- 4143 Exemption: Wholesale Sales to Other Entity, Physician, etc.
- 4144 Exemption: Industrial Uses Exception
- 4145 Exemption: Human (Insulin; Adrenaline) or Animal Use Exception: Furnishing for Administration of Insulin, Adrenaline, or Specified Animal Uses; Conditions
- 4146 Hypodermic Register
- 4148 Confiscation if Found Outside Licensed Premises
- 4149 Nonresident Sale by Distributor

## Article 10. Pharmacy Corporations

- 4151 Licensure Requirements for Shareholders, Directors, and Officers
- 4152 Corporate Name Requirements
- 4153 Shareholder Income while Disqualified
- 4156 Unprofessional Conduct by Corporation

## Article 11. Wholesalers and Manufacturers

- 4161 Out-of-State Manufacturer or Nonresident Wholesaler: When License Required; Application
- 4162 Registration—Agent Issuance or Renewal of Wholesaler License; Surety Bond
- 4164 Sales to Unauthorized Persons Reports Required
- 4165 Sale or Transfer of Dangerous Drug or Device Into State: Furnishing Records to Authorized Officer on Demand; Citation for Non-compliance
- 4166 Responsibility until Delivery Shipping of Dangerous Drugs or Devices – Wholesaler

- 4167 or Distributor  
Wholesaler: Bar on Obtaining Dangerous Drugs or Devices It More Than Cannot  
Maintain Be Stored-on Licensed Premises

### **Article 13. Non-Profit or Free Clinics**

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

### **Article 14. Surgical Clinics**

- 4190 Purchase of Drugs at Wholesale; Permitted Uses of Drugs; Required Records and  
Policies; License Required (Surgical Clinic)  
4191 License Compliance with Department of Health Services Requirements; Who May  
Dispense Drugs  
4192 Duties of Professional Director; Providing Information to Board  
4193 No Medi-Cal Clinic Not Eligible for Professional Dispensing Fee; Ban on Offering  
Drugs for Sale  
4194 No Schedule II Dispensing of Schedule II Substance by Clinic Prohibited; Physician  
May Dispense; Administration Authorized in Clinic

### **Article 15. Veterinary Food-Animal Drug Retailers**

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

### **Article 17. Continuing Education**

- 4233 Renewal Requirements  
4234 Course Content  
4231 Requirements for Renewal of Pharmacist License: Clock Hours; Exemption for New  
Licensee  
4232 Content of Courses

### **Article 18. Poisons**

- 4240 Application of Act

## Article 20. Prohibitions and Offenses

- 4341 Advertising in Compliance with Sections 651.3 Advertisement of Prescription Drugs or Devices
- 4343 Use of Sign with "Pharmacy" or Similar Terms Buildings: Prohibition Against Use of Certain Signs Unless Licensed Pharmacy Within

## CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1704 Change of a Address—reporting a change of address
- 1705 Notification of Bankruptcy, Receivership or Liquidation—reporting the sale, inventory and location of records of dangerous drugs by a pharmacy, wholesaler or manufacturer in bankruptcy
- 1708.2 Discontinuance of b Business—notification to board of a discontinuance of business and submission of appropriate forms
- 1708.4 Pharmacist h Handling r Radioactive d Drugs—training of a nuclear pharmacist
- 1708.5 Pharmacy Furnishing Radioactive Drugs—nuclear pharmacy requirements
- 1709 Names of Owners and p Pharmacist-in- e Charge—required information on a pharmacy permit, reporting PIC and owners on initial and renewal applications, and reporting of corporate officer changes
- 1714 Building Operational Standards and Security
- 1715.6 Reporting d Drug l Loss—reporting loss of controlled substances to the Board within thirty (30) day
- 1716 Variation from p Prescriptions—prescription errors, deviation from prescription without consent of prescriber
- 1717 Pharmaceutical Pharmaceutical p Practice—dispensing in new containers, pharmacist maintain on prescription record: date and initial of pharmacist, brand name of drug or device and indication if generic and manufacturer name, refill information, orally transmitted prescription requirements, depot of a prescription or a medication, prescription transfers, identification of pharmacist responsible for filling a prescription
- 1717.1 Common Electronic Files—establishing a common electronic file to maintain required dispensing information
- 1717.4 Electronic Transmission of Prescriptions—transmitting prescriptions by electronic means from prescriber to the pharmacy
- 1718.1 Manufacturer's Expiration Date—handling of prescription drugs not bearing a manufacturer's expiration date pursuant to federal law
- 1726 Preceptor Supervision of Intern Pharmacists
- ~~1727~~ Intern Pharmacist
- 1728 Intern Experience—Requirements for Licensure Examination
- 1732.1 Requirements for Recognized Accredited Providers—requirements to provide continuing education courses as a recognized provider for California pharmacists
- 1732.3 Coursework Approval for Providers Requirements for Continuing Education Courses
- 1732.4 Provider Audit Requirements

- 1732.5      Renewal Requirements for Pharmacist
- 1744        Drug wWarnings—oral or written warnings when a drug should not be taken with alcohol or when a person should not drive
- ~~1751 to~~
- ~~1751.09 and~~
- ~~1751.11 to~~
- ~~1751.12—~~ Compounding Area for Parenteral Solutions—parenteral therapy requirements for pharmacists and pharmacies
- 1751        Sterile Injectable Compounding Area
- 1751.01    Facility and Equipment Standards for Sterile Injectable Compounding from Non-Sterile Ingredients
- 1751.02    Policies and Procedures
- 1751.11    Furnishing to Home Health Agencies and Licensed Hospices
- 1751.12    Obligations of a Pharmacy Furnishing Portable Containers
- 1771        Posting of aNotice of sSuspension—suspended pharmacy must post a notice of suspension
- 1772        Disciplinary eConditions of sSuspension—suspended pharmacist shall not enter a pharmacy prescription area or perform pharmacy related duties
- 1780        Minimum sStandards for wWholesalers
- 1780.1     Minimum Standards for Veterinary Food-Animal Drug Retailers
- 1781        Exemption eCertificate—exemptee must be present in a manufacturer's or wholesaler's licensed premises
- 1786        Exemptions—return of exemption certificate to board upon termination of employment
- 1787        Authorization to Distribute Hemodialysis Drugs and Devices
- 1790        Assembling and Packaging
- 1791        Labeling
- 1792        Receipt of for Shipment

**HEALTH AND SAFETY CODE, TITLE 22**

- 11100      Report of Certain Chemical: Chemicals Included; Exclusions; Penalties controlled substance transaction—reporting sales of restricted chemicals to Department of Justice
- 11100.1    Report of Chemicals controlled substances rReceived from eOutside sState; Penalties—reporting Purchases of restricted chemicals from outside California
- ~~11124—~~ Inventory of Controlled Substances
- 11151      Limitation on Filling Prescriptions From Medical Students Issued By Unlicensed Person Lawfully Practicing Medicine
- 11158      Prescription rRequired for Schedule I, II, III, or IV, or V eControlled sSubstances—prescriptions for controlled substances must comply with requirements prior to dispensing; Exception for Limited Dispensing, Administration
- 11159      Chart Order Exemption for pPatient in eCounty or lLicensed hHospital; Maintaining Record for Seven Years—controlled substance orders in hospitals
- 11159.1    Chart Order Exemption for Clinic Records Patient; Maintaining Record for Seven Years
- 11159.2    Exception to Triplicate Prescription Requirement Terminally III Exception
- 11167      Emergency dDispensing of Schedule II sSubstance; Circumstances and Requirements—emergency oral Schedule II prescriptions; must receive a triplicate within seventy two (72) hours
- 11167.5    Emergency eOral or Electronic pPrescriptions for Schedule II Controlled Substance

- for Specified in-patients, Residents, and Home Hospice Patients; Requirements—  
~~oral orders for Schedule II drugs in a skilled nursing facility, intermediate care facility,  
 or a home health care agency providing hospice care; pharmacy to obtain special  
 triplicates from Dept. of Justice; facility must forward all signed order to the  
 pharmacy~~
- 11171 ~~Prescribing, etc. Controlled Substance Only as Authorized administering, or  
 furnishing controlled substance—furnishing controlled substances must be  
 consistent with law~~
- 11172 ~~Antedating or pPostdating pPrescription Prohibited~~
- 11175 ~~Prohibition on Obtaining and or pPossession of a Nonconforming pPrescription;  
 Prohibition on eObtaining eControlled sSubstance by a Nonconforming pPrescription~~
- 11180 ~~Prohibition on Controlled sSubstance eObtained or pPossessed by a Nonconforming  
 pPrescription —possession of a controlled substance obtained from noncomplying  
 prescriptions~~
- 11200 ~~Restrictions on dDispensing or rRefilling; Refill of Schedule II Prescription Barred—  
 refill restrictions of controlled substances~~
- 11201 ~~Emergency Refill by Pharmacist of Schedule III, IV, or V Prescription; Circumstances;  
 Requirements~~
- 11205 ~~Maintenance and rRetention of Records in Separate fFile—separate prescription file  
 for Schedule II prescriptions~~
- 11206 ~~Required iInformation on Prescription—information required on a prescription for  
 controlled substances~~
- 11209 ~~Delivery of Controlled and Receiving Requirements for Schedule II, III, and IV  
 Substances; Violation~~
- 11210 ~~Issuing Prescription; By Whom; For What Purpose; Quantity to Be Prescribed under  
 authorized project—a prescriber may not prescribe controlled substances to treat  
 addiction~~
- 11250 ~~Authorized Retail Sale by Pharmacists to Physicians, etc.; Required Order Form~~
- 11251 ~~Authorized Wholesale Sale by Pharmacists~~
- 11252 ~~Preservation of fFederally rRequired fForms—a wholesaler or manufacturer must  
 maintain records of sales~~
- 11253 ~~Duration of rRetention~~
- 11255 ~~Actions eConstituting sSale—orders for future delivery constitutes a sale of a  
 controlled substance~~
- 11256 ~~Required Report of Order bBy or Sale to Out-of-State Wholesaler or Manufacturer~~
- 111225 to  
111655 Adulterated or Misbranded Drugs or Devices

## CODE OF FEDERAL REGULATIONS, TITLE 21

- 1301.13 ~~Persons Required to Register~~Application for registration; time for application;  
 expiration date; registration for independent activities; application forms, fees,  
 contents and signature; coincident activities.
- 1301.14 ~~Separate Registration for Separate Locations~~Filing of application; acceptance for  
 filing; defective applications.
- 1301.71 Security requirements; generally.
- 1301.72 Physical security controls for non-practitioners; narcotic treatment programs and  
 compounders for narcotic treatment programs; storage areas.
- 1301.73 Physical security controls for non-practitioners; compounders for narcotic treatment  
 programs; manufacturing and compounding areas.

- 1301.74 Other security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs.
- 1301.77 ~~Physical~~ Security controls for practitioners; freight forwarding facilities.
- ~~1301.78 Other Security Controls for Practitioners~~
- 1301.90 Employee screening procedures.
- 1301.91 Employee responsibility to report drug diversion.
- 1301.92 Illicit activities by employees.
- 1302.03 Symbol required; exceptions.
- 1302.04 Location and size of symbol on label and labeling.
- 1302.05 Effective ~~D~~ates of Labeling Requirements.
- 1302.06 Sealing of controlled substances.
- 1302.07 Labeling and packaging requirements for imported and exported substances.
- ~~1304.18 Inventories of importers and exporters~~
- ~~1304.11 Inventory requirements.~~
- 1304.31 Reports from manufacturers importing ~~opium~~ narcotic raw material.
- 1304.32 Reports of manufacturers importing medicinal coca leaves.
- 1304.33 Reports to ARCOS.
- ~~1305.03 to~~
- ~~1305.06 and~~
- ~~1305.08 to~~
- ~~1305.12 and~~
- ~~1305.14 to~~
- ~~1305.16 Distributions requiring order forms; persons entitled to obtain and execute order forms; procedure for obtaining order forms; procedure for executing order forms; persons entitled to fill order forms; procedure for filling order forms; procedure for endorsing order forms; unaccepted and defective order forms; lost and stolen order forms; return of unused order forms~~
- 1305.03 Distributions requiring a Form 222 or a digitally signed electronic order.
- 1305.04 Persons entitled to order Schedule I and II controlled substances.
- 1305.05 Power of attorney.
- 1305.06 Persons entitled to fill orders for Schedule I and II controlled substances.
- 1305.11 Procedure for obtaining DEA Forms 222.
- 1305.12 Procedure for executing DEA Forms 222.
- 1305.14 Procedure for endorsing DEA Forms 222.
- 1305.15 Unaccepted and defective DEA Forms 222.
- 1305.16 Lost and stolen DEA Forms 222.
- 1306.03 Persons entitled to issue prescriptions.
- 1306.05 Manner of issuance of prescriptions.
- 1306.14 Labeling of substances and filling of prescriptions. — Schedule II.
- 1306.24 Labeling of substances and filling of prescriptions. — Schedule III and IV
- ~~1306.26 Transfer of Schedule III, IV, and V Prescriptions~~
- 1306.25 Transfer between pharmacies of prescription information for Schedules III, IV, and V controlled substances for refill purposes.
- 1306.26 ~~Dispensing W~~without a ~~P~~rescription.
- 1307.11 Distribution by dispenser to another practitioner or reverse distributor.—
- 1307.12 ~~Manufacture and d~~Distribution of narcotic solutions and compounds by a pharmacist to supplier or manufacturer.
- 1307.13 ~~Distribution to supplier~~Incidental manufacture of controlled substances.
- 1307.21 Procedure for disposing ing of controlled substances.
- ~~1700.1 to~~
- 1707.15 Child-resistant containers.

## **MISCELLANEOUS - HEALTH AND SAFETY CODE, TITLE 22**

411225 to

411655 — Adulterated or misbranded drugs or devices

## **MISCELLANEOUS-FEDERAL REGULATIONS**

16 CFR 1700.1 to

1707.15 — Child-resistant containers

## **CATEGORY II**

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

Maximum: Revocation

Category II discipline is recommended for:

- violations with a serious potential for harm
- violations which involve greater disregard for pharmacy law and public safety
- violations which reflect on ethics, care exercised or competence or a criminal conviction not involving dangerous drugs or controlled substances or involving possession or use of dangerous drugs or controlled substances.

Violations of the following codes are as follows representative of this category:

## **BUSINESS AND PROFESSIONS CODE**

650	<u>Rebates or Discounts for Referral Prohibited</u>
650.1	<u>Lease Prohibition – Hospitals or Prescribers</u>
651	<u>Professional Advertising Requirements</u>

### **Article 3. Scope of Practice and Exemptions**

4051(b)	<u>Conduct Authorized by Pharmacist from Outside Pharmacy</u>
4052	<u>conduct Authorized by Pharmacist Furnishing to Prescriber; Permissible Procedures by Pharmacist in Health Care Facility or Clinic or for Other Health Care Provider</u>
4060	<u>Possession of Controlled Substance – Prescription Required; Exceptions</u>
4061	<u>Distribution of Sample Drugs as Sample; Written Request Required</u>
4064	<u>Emergency Refills of Prescription Without Prescriber Authorization</u>
4067	<u>Internet; Prescription Dispensing over the Internet Dangerous Drugs or Devices without Prescription</u>
4076	<u>Proof of Identity of Recipient for Controlled Substance Prescriptions</u>
4079	<u>False or Misleading Labeling</u>
4075	<u>Proof of Identity Required – Oral or Electronic Prescription</u>
4078	<u>False or Misleading Label on Prescription</u>

### **Article 6. General Requirements**

4101	<u>Termination as Pharmacist in Charge, Exemptee: Termination of Employment; ; Notice Notification to Board</u>
4106	<u>Licensed Employee: Theft or Impairment</u>
4107	<u>Retaining Records on Premises</u>
4104	<u>Licensed Employee, Theft or Impairment: Pharmacy Procedures</u>
4105	<u>Retaining Records of Dangerous Drugs and Devices on Licensed Premises; Temporary Removal; Waivers; Access to Electronically Maintained Records</u>

### **Article 7. Pharmacies**

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

Documents

**Article 9. Hypodermic Needle and Syringes**

- 4140 Unlawful Possession  
4147 Disposal of Needle or Syringe

**Article 11. Wholesalers and Manufacturers**

- 4161 Nonresident Wholesaler: When License Required; Application  
4163 Sales to Unauthorized Persons Furnishing by Manufacturer or Wholesale  
4164 Reporting by Manufacturer and Wholesalers Reports Required  
4169(a)(1) Prohibited Acts

**Article 13. Non-Profit of Free Clinics**

- 4185 Inspections Permitted

**Article 14. Surgical Clinics**

- 4195 Inspections Permitted

**Article 19. Disciplinary Proceedings**

- 4301 General Unprofessional Conduct and - subsections (a)-(h), (j), and (l) through (q)  
4302 Pharmacy Corporation Discipline of Corporate Licensee for Conduct of Officer, Director, Shareholder  
4303 Nonresident Pharmacy: Grounds for Discipline  
4304 Out-of-State Distributors Authority to Discipline  
4307 Failure to Notify Board of Termination of Pharmacist in Charge; Operation of Pharmacy without a Pharmacist  
4305 Disciplinary Grounds: Failure of Pharmacy, Pharmacist to Notify Board of Termination of Pharmacist in Charge; Continuing to Operate Without Pharmacist  
4305.5 Disciplinary Grounds: Failure of Other Entity Licensed by Board, to Keep Pharmacist in Charge or Exemptee in Charge; Failure to Notify Board of Termination of Same Pharmacist in Charge or Exemptee; Continuing to Operate Without Pharmacist or Exemptee  
4308 Violation of Moscone-Knox Professional Corporation Act  
4306 Violation of Professional Corporation Act as Unprofessional Conduct  
4306.5 Pharmacist Misuse of Education, etc. by Pharmacist Outside Course of Practice of Pharmacy as Unprofessional Conduct

**Article 20. Prohibitions and Offenses**

- 4326 Hypodermics: Obtaining Falsely; Misuse Misdemeanor: Obtaining Needle or Syringe by Fraud, etc.; Unlawful Use of Needle or Syringe Obtained from Another  
4328 Allowing Compounding by Non-pharmacist Misdemeanor: Permitting Compounding, Dispensing, or Furnishing by Non-pharmacist  
4330 Pharmacy; Failure to Place Pharmacist in Charge, Subverting Compliance with Law by Pharmacist in Charge Misdemeanor: Non-pharmacist Owner Failing to Place

4331	<u>Pharmacist in Charge, Dispensing or Compounding Except by Pharmacist, Interfering with Pharmacist in Charge</u> <del>Veterinary Food-Animal Drug Retailer; Dispensing by Other than Pharmacist or Exemptee; Failure to Place Pharmacist or Exemptee in Charge</del> <u>Misdemeanor: Medical Device Retailer, Wholesaler, Veterinary Food-Animal Drug Retailer Failing to Place Pharmacist or Exemptee in Charge, Permitting Dispensing or Compounding Except by Pharmacist or Exemptee</u>
4333	<del>Failure to Maintain Prescription Files</del> <u>Maintaining Prescriptions, Other Drug Records on Premises, Open to Inspection; Waiver; Willful Failure to Keep or Permit Inspection of Records of Prescriptions, Other Records as Misdemeanor</u>
4340	<del>Advertisement of Pharmacy Services by Unregistered Non-Resident Pharmacy</del> <u>Unlawful Advertising by Nonresident Pharmacy Not Registered with Board</u>

## Article 22. Unfair Trade Practices

4380	<u>Resale of Preferentially Priced Drugs;—Emergency Prohibition; Exceptions</u>
4381	<del>Violation of Section 4380 as Unfair Competition; Right of Private Action to Enforce</del>
4382	<del>Authority of Board to May Audit for Compliance</del> <u>Sales to Walk-in Customers</u>

## CALIFORNIA CODE OF REGULATIONS, TITLE 16

1707.1	<del>Duty to mMaintain mMedication pProfiles (pPatient mMedication rRecords)— requirements for maintenance of patient medication profiles</del>
1707.2	<del>Notice to eConsumers and dDuty to eConsult—requirements of pharmacist to consult; posting of notice to consumers</del>
1707.3	<del>Reviewing the patient profile prior to consultation</del> <u>Duty to Review Drug Therapy and Patient Medication Record Prior to Deliver</u>
1709.1	<u>Designation of pPharmacist in eCharge</u>
1714.1	<u>Pharmacy Operation dDuring Temporary Absence of a Pharmacist</u>
4716	<del>Self-Assessment of a Pharmacy by the Pharmacist in-Charge</del>
1715	<u>Self-Assessment of a Pharmacy by the Pharmacist-in-Charge</u>
1715.5	<del>Transmitting Schedule II Prescription Information to CURES</del> <u>Implementation of Electronic Monitoring of Schedule II Prescriptions</u>
1716.1	<u>Compounding Unapproved dDrugs for pPrescriber eOffice uUse</u>
1716.2	<del>Record rRequirements—when eCompounding for fFuture fFurnishing</del>
1717.2	<u>Notice of Electronic Prescription Files</u>
1717.3	<u>Preprinted, mMultiple eCheck-off pPrescription bBlanks</u>
1723.1	<u>Confidentiality of Examination Questions</u>
1745	<u>Partial fFilling of Schedule II pPrescriptions</u>
1751.10	<del>Furnishing to pParenteral pPatient at hHome—carrying and furnishing dangerous drugs to parenteral patients</del>
1761(a)	<u>Erroneous or Uncertain Prescriptions—</u>
1764	<del>Unauthorized dDisclosure of pPrescriptions—revealing the contents of a prescription to unauthorized persons</del>
1765	<u>Commissions, gGratuities, and rRebates—commission, gratuity or rebate to a health care facility</u>
1766	<u>False or mMisleading aAdvertising</u>
1775.3	<u>Compliance with Orders of Abatement</u>
1782	<u>Reporting Sales of Drugs Subject to Abuse</u>
1783	<u>Manufacturer or Wholesaler Furnishing Drugs or Devices</u>

~~1775.4 Compliance with Orders of Abatement~~  
~~1784 Reporting Sales of Drugs Subject to Abuse~~  
~~1785 Manufacturer or Wholesaler Furnishing~~  
~~1793.1 to~~  
~~1793.7 Ancillary personnel—pharmacy technician requirements and tasks~~  
~~1793.1 Duties of a Pharmacist~~  
~~1793.2 Duties of a Pharmacy Technician~~  
~~1793.3 Other Non-Licensed Pharmacy Personnel~~  
~~1793.4 Qualifications for Registration as a Pharmacy Technician~~  
~~1793.7 Requirements for Pharmacies Employing Pharmacy Technicians~~  
~~1793.8 Technicians in Hospitals with Clinical Pharmacy Programs~~

## HEALTH AND SAFETY CODE, TITLE 22

- 11103 Report of ~~t~~Theft, lLoss, or ~~s~~Shipping ~~d~~Discrepancy—reporting losses of restricted chemicals to Department of Justice
- ~~41123~~ Warehouseman License
- ~~41124~~ Warehouse Inventory
- ~~41125~~ Warehouseman Bond
- ~~41128~~ Nontransferability of Warehouse License
- ~~41129~~ Discipline or Denial of Warehouse License
- ~~41130~~ Disciplinary Grounds for Warehouse License
- ~~41131~~ Disciplinary Grounds for Warehouse License
- 11150 ~~Issuing Controlled Substance Prescription~~ Persons Authorized to Write or Issue a Prescription
- 11152 ~~Nonconforming pPrescriptions Prohibited~~—filling a prescription that does not conform to the requirements of the code
- 11154 ~~Issuing Prescriptions, etc. Must Be for Treatment; Knowing Soliciting of Unlawful Prescription, etc.~~
- 11156 ~~Prescribing, etc. Administering or dispensing eControlled sSubstances to a Addict Only as Authorized~~—prohibition on administering or dispensing a controlled substance to an addict or a habitual user
- 11164 ~~Completion of pPrescriptions for Schedule II, III, IV and V eControlled sSubstance; Form and Content; Record of Practitioner Dispensing Schedule II Controlled Substance~~—prescription requirements for controlled substances
- ~~11165(d)~~ CURES Transmission
- 11166 ~~Time Limit Ffor Filling Schedule II Prescriptions; Knowingly Filling Mutilated, Forged, or Altered Prescriptions Prohibited~~
- 11170 ~~Prohibition on Prescribing, etc. eControlled sSubstance for sSelf-use~~—prohibition on prescribing, administering or furnishing controlled substance to self
- 11179 ~~Retention of Controlled Substance Prescription period~~—prescription file to be maintained' for three (3) years
- 11207 ~~Filling prescription eOnly by pPharmacist or iIntern Authorized to Fill Prescription~~ pharmacist—dispensing, compounding, filling by pharmacist or intern pharmacist only
- 11209 ~~Delivery and Receiving Requirements for Schedule II, III, and IV Substances; Violation~~
- 11350 ~~Possession of sSpecified eControlled sSubstance~~—illegal possession of a narcotic
- 11377 ~~Unlawful pPossession of sSpecified sSubstance~~—illegal possession of a non-narcotic controlled substance

## CODE OF FEDERAL REGULATIONS, TITLE 21

- 1304.03 Persons required to keep records and file reports.
- 1304.04 Maintenance of records and inventories.
- 1304.11 ~~General Inventory requirements for inventories~~
- 1304.21 General requirements for continuing records.
- 1304.22 Records for manufacturers, distributors, dispensers, researchers, importers and exporters.
- 1305.07 Power of attorneySpecial procedures for filling certain orders.
- 1305.13 ~~Preservation of order forms~~Procedure for filling DEA Forms 222.
- 1306.04 Purpose of issue of prescription.

- 1306.06 Persons entitled to fill prescriptions.
- ~~1306.08 Administering or dispensing of narcotic drugs~~
- 1306.11 ~~\_\_\_\_\_~~—Requirement of Schedule II Pprescriptions.
- 1306.12 Refilling prescriptions.—Schedule II
- 1306.13 Partial filling of prescriptions.—Schedule II
- 1306.21 Requirement of prescription.—Schedule III and IV
- 1306.22 Refilling of prescriptions.—Schedule III and IV
- 1306.23 Partial filling of prescriptions.—Schedule III and IV

### CATEGORY III

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

For a licensed premises, a minimum 14-28 days actual suspension.

Maximum: Revocation

Category III discipline is recommended for:

- most criminal convictions involving dangerous drugs or controlled substances
- knowing or willfully violating laws or regulations pertaining to dispensing or distributing dangerous drugs or controlled substances
- fraudulent acts committed in connection with the licensee's practice
- drug shortages
- violation of a licensee's corresponding responsibility.

Violations of the following codes are as follows representative of this category:

### BUSINESS AND PROFESSIONS CODE

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

4051(a) Conduct Limited ~~To~~ Pharmacist

~~4060~~ Furnishing without prescription

4059 Furnishing Dangerous Drugs or Devices Prohibited Without Prescription: Exceptions

4059.5 Ordering Who May Order Dangerous Drugs or Devices: Exceptions

#### Article 5. Authority of Inspectors

4080 Stock of Dangerous Drugs and Devices Kept Open for Inspection

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

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

#### Article 7. Pharmacies

4110 Requirement of License Required; Temporary Licenses Permit Upon Transfer of Ownership

4111 Restrictions on Prescriber Ownership by Prescribers Prohibited

#### Article 11. Wholesalers and Manufacturers

4169(a)(2) to

4169(a)(5) Prohibited Acts

## Article 15. Veterinary Food-Animal Retailers

4199 Labeling, Recordkeeping Requirements; Maintaining Prescription Records

## Article 19. Disciplinary Proceedings

4301 Unprofessional Conduct - Ssubsections (i) and (k) and (o)  
4307 Prohibition against Association with Individual with Entity License by Board; Length of Prohibition; Individuals Covered; Imposition of Prohibition Through Administrative Act Proceeding  
4308 Notification of Licensee Person is Prohibited from Association; Replacement Notification of Affected Licensees Known to Board

## Article 20. Prohibitions and Offenses

4322 Misdemeanor or Infraction: False Representations to Obtain Secure License for Self or Others; False Representation of Licensure; Penalties  
4323 Misdemeanor: False Representation of Self as Physician, Agent of Physician, etc. by Telephone or Electronic Transmission to Obtain a Drug  
4324 Felony or Misdemeanor: Forgery of Prescription; Possession of Drugs Obtained Through Forged Prescription or Alteration  
4325 Misdemeanor: Manufacture, Possession, etc. of False Producing Prescription Blanks Without Authorization  
4327 Misdemeanor: Sale, Dispensing, or Compounding While Under the Influence Use of Alcohol or Drugs while on Duty or Alcoholic Beverages  
4329 Misdemeanor: Non-pharmacist Taking Charge Acting as Manager, Compounding, Dispensing or Furnishing Drugs  
4332 Misdemeanor: Failure or Refusal to Maintain or Produce or Provide Required Drug or Device Records; Willful Production of False Records  
4335 Voided License: Knowing Failure to Arrange for Disposition of Stock as Misdemeanor  
4336 Felony: Knowing or Willful Use of Minor to Violate Specified Sections of Pharmacy Law: Exception for Pharmacist Furnishing Pursuant to a Prescription  
4337 Failure to Arrange for Transfer of Stock after Closure  
4338 Use of Minor as Agent to Violate Pharmacy Law

## Article 22. Unfair Trade Practices

4380 Resale of Preferentially Priced Drugs: Prohibition; Exceptions

## CALIFORNIA CODE OF REGULATIONS, TITLE 16

1718 Current Inventory dDefined—audit accountability of dangerous drugs  
1761(b) Controlled substance prescription—professional judgment Erroneous or Uncertain Prescriptions  
1771 to  
1774 Disciplinary conditions of suspension and probation  
1771 Posting of Notice of Suspension  
1772 Disciplinary Condition of Suspension  
1773 Disciplinary Conditions of Probation of Pharmacist

**HEALTH AND SAFETY CODE, TITLE 22**

11104	<del>Providing Chemical for Illicit Manufacturing; Evasion of Reporting Requirements; Penalties controlled substances for manufacturing</del>
11105	False Statement in Report
<del>11122</del>	<del>Storage of Controlled Substances</del>
11150	Persons <del>a</del> Authorized to <del>w</del> Write or <del>i</del> ssue a <del>p</del> Prescription
11153	Responsibility for <del>Legitimacy of controlled substance p</del> Prescription; <del>Corresponding Responsibility of Pharmacist—corresponding responsibility of a pharmacist</del>
11153.5	<del>Wholesaler or Manufacturer Furnishing a eControlled sSubstance for eOther tThan for a lLegitimate mMedical pPurpose; Knowing Violation; Factors in Assessing Legitimacy—corresponding responsibility of a wholesaler or manufacturer</del>
11157	<del>No False or fFictitious pPrescriptions—issuing a false or fictitious prescription</del>
11162.5	Counterfeiting or <del>p</del> ossession of <del>e</del> Counterfeit <del>Triplicate p</del> Prescription <del>b</del> Blank; Penalty
11167.5	Pharmacy Generated Prescription for Schedule II Controlled Substance in a Skilled Nursing Facility
11173	<del>Fraud, dDeceit, mMisrepresentation or fFalse sStatement; False Representation; False Label—obtaining controlled Substances by fraud or deceit</del>
11174	<del>Prohibition on Providing False nName or aAddress in Connection with Prescription, etc.—false name or address on prescription</del>
11351	<del>Possession or pPurchase for sSale of sSpecified eControlled sSubstance—illegal possession for sale of a narcotic</del>
11368	<del>Forged or aAltered pPrescriptions—forging a narcotic prescription</del>
11375	<del>Possession for sSale or sSelling sSpecified sSubstance</del>
11378	<del>Possession for sSale—illegal possession for sale of a nonnarcotic</del>
11550	<del>Using or bBeing uUnder the influence of eControlled sSubstance</del>
111295	Manufacturing, Selling or Offering for Sale an Adulterated Drug or Device
111300	Unlawful to Adulterate a Drug
111305	Unlawful to Receive in Commerce an Adulterated Drug
111440	Unlawful Manufacturer, selling a misbranded Drug
111445	Unlawful for a Person to Misbrand
111450	Unlawful to Receive into Commerce a Drug that is Misbranded

**CATEGORY IV**

Penalty: Revocation

Revocation is recommended for violations of the Uniform Controlled Substance Act (Heath and Safety Code 11000 et seq.) involving:

- possession for sale
- transportation
- importation
- sale
- use of a minor for the unlawful sale of controlled substances

Revocation is also recommended when:

- a respondent fails to file a notice of defense or to appear at a disciplinary hearing

- where the board has requested revocation in the accusation
- a respondent violates the terms and conditions of probation from a previous disciplinary order
- prior discipline has been imposed, as progressive discipline unless the respondent can demonstrate satisfactory evidence of rehabilitation.

Violations of the following codes are as follows representative of this category:

**HEALTH AND SAFETY CODE, TITLE 22**

- 11352 Importing, sSelling, fFurnishing eControlled sSubstance—illegal sale of a narcotic
- 11353 Adult iInducing mMinor to vViolate controlled substances pProvisions
- 11379 Transporting, iImporting, sSelling eControlled sSubstances—illegal sale of a non-narcotic
- 11380 Adult uUsing, sSoliciting or iIntimidating mMinor for vViolation—violation of non-narcotic provisions or the use of a minor

## MODEL DISCIPLINARY LANGUAGE - PREMISES

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

### ~~Revocation – Single Cause~~

License number \_\_\_\_\_, issued to respondent \_\_\_\_\_, is revoked.

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

### ~~Revocation – Multiple Causes~~

License number \_\_\_\_\_, issue to respondent \_\_\_\_\_ is revoked pursuant to Determination of Issues \_\_\_\_\_, separately and together.

~~For premises:~~ 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 controlled substances and dangerous drugs and devices. Respondent shall provide written proof of such disposition to the board within five days of disposition.

### ~~Suspension – Single Cause~~

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

### ~~Suspension – Multiple Causes~~

Respondent is suspended from \_\_\_\_\_ operations for \_\_\_\_\_ beginning the effective date of this decision.

### ~~Standard Stay/Probation Order~~

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

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

The application for licensure of respondent is hereby granted, on the following terms and conditions:

- ~~1. That, respondent first meet all statutory and regulatory requirements for the issuance of a license to \_\_\_\_\_.~~
- ~~2. That, following the satisfaction of #1, respondent's license be issued and immediately revoked, the order of revocation being stayed and respondent placed on probation for a~~

period of \_\_\_\_\_ years on the following terms and conditions:

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

### **Surrender**

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

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

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

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

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

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

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

### **Public Reprimand**

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

### **Adoption of Stipulation**

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

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

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Obey ~~a~~All laws
2. Reporting to the Board
3. Interview with the Board
4. Cooperation ~~ne~~ with Board Staff
5. Reimbursement of Board Costs
6. Probation Monitoring Costs
7. Status of License
8. License Surrender ~~w~~While on Probation/Suspension
9. Notice to Employees
10. Owners and Officers: Knowledge of ~~the~~ Law
11. Posted Notice of Probation
- ~~11.~~12. Violation of Probation
- ~~12.~~13. Completion of Probation

**OPTIONAL CONDITIONS**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

- ~~1.~~Actual Suspension
- ~~2.~~14. Community Services Program
- ~~3.~~15. Restitution
- ~~4.~~16. Separate File of Records
- ~~5.~~17. Report of Controlled Substances
- ~~6.~~18. Surrender of DEA Permit
- ~~7.~~19. Posted Notice of Suspension

## STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS

### 1.1. Obey All Laws

Respondent owner shall obey all state and federal laws and regulations ~~substantially related to or governing the practice of pharmacy.~~

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

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

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

### 2.2. Reporting to the Board

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

### 3.3. Interview with the Board

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

### 4.4. Cooperation with Board Staff

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

### **5.5. Reimbursement of Board Costs**

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

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

Option: If respondent owner fails to make any payment by the directed deadline(s), the stay shall terminate and the license shall be revoked without further notice or opportunity to be heard.

### **6.6. Probation Monitoring Costs**

Respondent owner shall pay ~~the 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 ~~at the end of each year of probation on a schedule as directed by the board or its designee.~~ Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

### **7.7. Status of License**

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

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

### **8.8. License Surrender wWhile 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~~ owner ~~discontinue business,~~ respondent owner may tender his or her ~~the~~ premises license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent owner shall relinquish his or her ~~po~~cket ~~the~~ premises wall and renewal license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent owner shall further submit a completed Discontinuance of Business form according to board guidelines and shall notify the board of the records inventory transfer. Respondent owner may not ~~reapply for any license-new licensure~~

from the board for three (3) years from the effective date of the surrender. Respondent owner shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

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

#### **9.9. Notice to Employees**

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

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

#### **40.10. Owners and Officers: Knowledge of the Law**

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

#### **11. Posted Notice of Probation**

Respondent owner shall prominently post a probation notice provided by the board in a place conspicuous and readable to the public. The probation notice shall remain posted during the entire period of probation.

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

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

#### **44.12. Violation of Probation**

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

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

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

#### **42.13. Completion of Probation**

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

## OPTIONAL CONDITIONS OF PROBATION

### **1. Actual Suspension**

As part of probation, respondent pharmacy is suspended from the operation of pharmacy for \_\_\_\_\_ days beginning the effective date of this decision.

~~During suspension, respondent pharmacy may not order, maintain or dispose of any dangerous drugs and devices or controlled substances. The pharmacy may not make demand or bill for any drugs or services during the period of suspension and may not process any claims for pharmacy services during the period of suspension, except as to services rendered prior to the effective date of the suspension period. The pharmacy shall not receive or transmit any prescription, new or refill, during the period of suspension. Where the pharmacy does not maintain dangerous drugs and devices or controlled substances in an area which can be closed off from the rest of the pharmacy and locked, the entire pharmacy must be closed during the period of suspension.~~

### **2.14. Community Services Program**

Within sixty (60) days of the effective date of this decision, respondent owner shall submit to the board or its designee, for its prior approval, a community service program in which respondent shall provide free 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 owner shall submit documentation to the board demonstrating commencement of the community service program. Respondent owner shall report on progress with the community service program in the quarterly reports.

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

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

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

### **4.16. Separate File of Records**

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

### **5.17. Report of Controlled Substances**

Respondent owner shall submit quarterly reports to the board detailing the total acquisition and

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

#### **6.18. Surrender of DEA Permit**

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

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

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

#### **7.19. Posted Notice of Suspension**

Respondent owner shall prominently post a suspension notice provided by the board in a place conspicuous and readable to the public. The suspension notice shall remain posted during the entire period of actual-suspension ordered by this decision.

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

2/27/2004/2007