IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT, DIVISION FIVE

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Appellant, v. **DENNIS PERON AND BETH MOORE,** Defendant and Respondent.	A077630

San Francisco County Superior Court No. 980105
The Honorable David Garcia, Judge

APPELLANT'S REPLY BRIEF

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ARGUMENT

I.

RESPONDENT'S REQUEST FOR JUDICIAL NOTICE SHOULD BE DENIED

Respondents have lodged a packet containing six groups of documents with the court. Respondents seek to have this Court take judicial notice of the documents.

Appellant opposes this request for judicial notice.

While Evidence Code section 459, subdivision (a), might permit judicial notice:

> "'[A]s a general rule the [appellate] court should not take . . . [judicial] notice if, upon examination of the entire record, it appears that the matter has not been presented to and considered by the trial court in the first instance.'" (*Carleton* v. *Tortosa* (1993) 14 Cal.App.4th 745, 753-754, fn. 1.)

None of the materials which are contained in the packet were before the trial court. The request for judicial notice can and should be denied solely on the basis of *Carleton*. Even if this Court is not

inclined to deny the request solely on the basis of *Carleton*, it is appropriate to deny the request as to each item on other grounds.

The first three groups of documents (designated Exhibits 1-3) consist primarily of news articles and press releases which have as their focal point the search warrant served on August 4, 1996. Respondents' purpose in offering these groups of documents is:

> "In determining the voters' intent these are *Amador Valley Joint Union High School District* v. *State Board of Equalization* (citation) (A Court "may take judicial notice of the fact that the advanced publicity materials which a court may take judicial notice of. See and public discussion of [a proposition] and its predicted effects were massive (citation).").) (Motion Requesting Notice, second page.)

Respondents do not assert the truthfulness of any of these documents (Motion Requesting Notice, second page). Apparently, Respondents refer to page 231 of the *Amador Valley* opinion ((1978) 22 Cal.3d 208). The purpose of the judicial notice in *Amador Valley* was to assist the court's analysis whether the initiative being litigated in that case violated the single subject requirement (*id.* at pages 230-232), an issue not presented in this case. As to issues of the intent of the voters, the *Amador Valley* court looked not to the judicially noticed materials but rather:

> ". . . when, as here, the enactment follows voter approval, the ballot summary and arguments and analysis presented to the electorate in connection with the particular measure may be helpful in determining the probable meaning of uncertain language." (*Amador Valley, supra,* at pp. 245-246.)

Simply put, *Amador Valley* does not support Respondents' request for notice. The reason for taking judicial notice in *Amador Valley* isn't present in this case. The materials necessary to ascertain the intent of the voters in this case are already before this Court (AA

187-188, 214-216). The materials offered should not be judicially noticed.

The fourth group of documents are motions filed in the civil matter out of which this appeal arises. They relate to proceedings which have occurred after the modification order. Respondents give no reason for their request for notice (Motion Requesting Notice, third page). Appellant submits this request should be denied on the same theory that the court denied the request for judicial notice in *People* v. *Edelbacher* (1989) 47 Cal.3d 983, 1001. In *Edelbacher*, the materials at issue were news articles printed after the change of venue motion had been decided. The court concluded that because these were documents that appeared after the contested decision they were not relevant. The same principle applies here. As an additional ground of objection, Appellant notes that the documents offered are uncertified copies of court documents[1/] and that notice should be denied on that basis (see *People* v. *Preslie* (1977) 70 Cal.App.3d 486, 495).

The fifth document is notice that Proposition 215 had qualified for the ballot. No reason for offering this document is stated in the motion (see Motion Requesting Notice, third page). There is no issue that the proposition was on the ballot, and there is no reason to take notice of this document.

The sixth documents are legislative proclamations. Respondents' stated reason for seeking judicial notice of these documents is:

> ". . . the legislative proclamations concerning the activities of respondent Dennis Peron so as to place the history of the

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1. Respondents did not seek to add to the Appendix in this case (see Rule of Court, Rule 5.1 (f). Of course this material wasn't before the trial court.

> initiative and what it sought to accomplish in perspective." (See Motion Requesting Notice, third page.)

There is no need for this Court to know what the Legislature has proclaimed about Mr. Peron's activities because this statute wasn't enacted by the legislature and these proclamations aren't relevant to any issue in this appeal:

> ". . . in construing legislation 'we do not consider the motives or understandings of an individual legislator even if he or she authored the statute.'" (*Grupe Development Co.* v. *Superior Court* (1993) 4 Cal.4th 911, 922; see also *Kennedy Wholesale, Inc.* v. *State Bd. of Equalization* (1991) 53 Cal.3d 245, 250, fn. 2.)

For all of the reasons stated, the request for judicial notice should be denied in its entirety.

II.

HEALTH AND SAFETY CODE SECTION 11362.5 DOES NOT, ON ITS FACE, PERMIT THE SALE OF MARIJUANA

The injunction was entered because the Respondents were operating a facility which unlawfully sold marijuana. As such, the facility was subject to mandatory injunction pursuant to Health and Safety Code section 11570. The injunction was modified because Judge Garcia concluded that the passage of Proposition 215 in the November, 1996 election, permitted Respondents' facility to reopen and sell marijuana so long as the sales resulted in no net profit. (AA 224-225.) While the discussion of the issues raised in this appeal necessarily involves both criminal and civil provisions of the Health and Safety Code, the overall context is that of a civil action. The primary question is whether Respondents can be permitted to operate what the court first recognized to be a nuisance (see Health and Safety Code section 11366, 11366.5 and 11570) because of the passage of Proposition 215 (adding Health and Safety Code section 11362.5).

Respondents' argument is built primarily on the second clause of Health and Safety Code section 11362.5 (b)(2) which they submit is the necessary statutory support for Judge Garcia's order modifying the injunction (Respondent's Brief, hereinafter RB, pp. 1-17[2]).

Based on only some portions of the statute, Respondents conclude that the statute's "plain an apparent . . . terms" permit the sale (RB, p. 13[3]) of marijuana from premises operated "much like a

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2. Identified by Respondents as subsection 11362.5(b)(1)(C)(2) (RB, pp. 2 and 8).

3. Respondents are reluctant to use the word sale. Instead they invent the phrase "divert for medical purposes." This euphemistic

pharmacy" (RB, p. 11). Respondents' argument that the statute so permits is founded on Judge Garcia's erroneous conclusion that although the section (11362.5) does not permit a sale of marijuana (Transcript of Hearing January 8, 1997, p. 6, lines 22-26), sale by a facility that didn't show a net profit was somehow not a sale (see *Peck, supra,* and *Daniels, supra,* as contrary authority). The critical inquiry, then, is whether there is any language in the statute that *on its face* permits the sale of marijuana.

In their analysis, Respondents make innumerable claims about what the voters knew and intended (see RB, pp. 2, 8-13, 17). None of these claims would be necessary if, as Respondents' claim, the statute clearly, on its face, supported the result that Respondents seek.[4/] None of these claims are appropriately offered as part of an argument that the four corners of the statute are clear rather than ambiguous (see *People ex rel. Lungren* v. *Superior Court* (1996) 14 Cal.4th 294, 299, and 306-307; *People* v. *Hazelton* (1996) 14 Cal.4th 101, 105-106, and 109).

Respondents seek to have this Court uphold the trial court's incorrectly broad construction of a statute which, on its face, taken as a whole, is narrow in scope.

At RB, pages 1 and 2, Respondents stated:

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reference is to the sale of marijuana from a premises that is supposed to be operated at no net profit. California law simply doesn't support the use of this euphemism (see *People* v. *Peck* (1996) 52 Cal.App.4th 351, 357 and *People* v. *Daniels* (1975) 14 Cal.3d 857, 861). Appellant submits that the activity should be labelled correctly as sale.

4. These claims will be discussed in some greater detail in the argument which follows.

> "The only limitation, placed by the voters, on the application of its purpose in the interpretation of the initiative was as follows:
>
> 'Nothing in this act shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor condone the diversion of marijuana for nonmedical purposes.'"

This is Respondents' only mention of the entirety of Health and Safety Code subsection 11362.5(b)(2). In their argument, Respondents mention only the second limitation (see RB, pp. 2, 6, 8-10, 12). Their reason for ignoring the first limitation is quite clear.

The first limitation expressed as part of subsection 11362.5(b)(2) means exactly what it says, that is, that no existing legislation enacted to prevent one person from doing acts that endanger another person is affected by section 11362.5. Respondents concede that section 11362.5 did not amend this legislation:

> ". . . that define[s] the various prohibitions associated with marijuana and controlled substances." (RB, page 28.)

They attempt to extricate themselves from the purview of the language of the first clause of section 11362.5(b)(2) by relying on the case of *California Gillnetters Assn.* v. *Department of Fish & Game* (1995) 39 Cal.App.4th 1145. Respondents cite this case for the proposition that section 11362.5 ". . . removed medicinal marijuana from the scope of those [the other Health and Safety Code] sections" (RB, p. 28). As part of this effort Respondents assert that their euphemism regarding the "right to divert" (see footnote 3, *supra*) permits their sales. The problem is that sale is one of those prohibitions the Legislature had enacted to protect others which was not superseded by section 11362.5. In addition, section 11362.5 discusses only possession and cultivation, it simply doesn't discuss a right to divert and one may not be presumed

> "Under the familiar rule of construction, *expressio unius est exclusio alterus*, where exceptions to a general rule are specified by statute, other exceptions are not to be implied or presumed. [Citation.] This rule, of course, is inapplicable where its operation would contradict a discernible and contrary legislative intent." (*Wildlife Alive* v. *Chickering* (1976) 18 Cal.3d 190, 195.)

Respondents' reliance on the *California Gillnetters* case is misplaced. The language Respondents quote from the *Gillnetters* case related to the contention whether sections that might be influenced (as opposed to amended or repealed) had to be specifically noted in the ballot pamphlet (*California Gillnetters, supra,* at p. 1165 including fn. 14). No such contention is made in this case. Respondents cite *Gillnetters* for the proposition that the impact on the other Health and Safety Code sections was to remove "medical marijuana."

Proposition 132[5/] contained language that specifically made part of a certain geographic area subject only to regulation on gillnetting before the initiative was passed subject to a prohibition on gillnetting. (*California Gillnetters, supra,* fn. 14). In enacting section 11362.5(b)(2), in marked contrast, the electorate specifically did not supersede any existing legislation which addressed conduct by one person that endangers other persons. Charges brought involving marijuana possessed or cultivated in compliance with the requirements of section 11362.5 can be subjected to the affirmative defense that the possession or cultivation was for medicinal purposes. However, it is still subject to all other Health and Safety Code provisions relating to drugs; if it is sold, the existing legislation involving sales is implicated;

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5. This proposition was passed by the electorate at the November, 1990 election (*California Gillnetters, supra,* at p. 1151). The complete text of the proposition is included as Appendix 1.

if a place is maintained for sale, distribution or giving marijuana away it is a nuisance[6/].

As Appellant has already pointed out, the Legislature has recently found that sales of marijuana are a nuisance that "adversely affects the public . . . safety" (AOB, pp. 11-12). More directly relevant are the sections encompassed in the Sherman Food, Drug and Cosmetic Laws (Health & Saf. Code, § 109875 et seq.) which are specifically directed at sales of drugs.

Health and Safety Code section 111470 expressly speaks to the issue of sale of any drug of various types (marijuana is included, see Health & Saf. Code, §§ 111470(a) and 111350), such drugs:

> ". . . shall be *sold* only upon a written prescription of a practitioner licensed by law to prescribe the drug . . . and filed by a pharmacist. . . ." (Emphasis added.)

Respondents argue in favor of a very broad intent and purpose which would permit them to sell marijuana without a prescription and without the protections provided by a pharmacy. To do this they must ignore the fact that section 11362.5 by its plain language adopts all *legislation* that prevents one person from doing acts which the

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6. In other words, there is no such thing as "medical marijuana." There is only marijuana. If it is possessed or cultivated by certain persons under certain circumstances these persons can successfully defend against criminal charges of possession or cultivation. These same persons cannot avoid an injunction if they join together and create an enterprise that maintains a place for sale because section 11362.5 doesn't supersede the provisions mandating injunction of such a nuisance.

It is the circumstances of the persons that govern. The nature of the controlled substance does not legally change. State law cannot supersede federal law which also classifies marijuana as a schedule I controlled substance.

Legislature has found endanger others. Among the acts the Legislature has found to be dangerous is the sale of marijuana.

Respondents have failed to address the provisions of the Sherman Act, preferring instead to simply state, in a related context:

> "The Attorney General appears to argue that no matter what initiative the voters have enacted, the Legislature has the last word when it comes to laws and policy. . . . This is an untenable argument and no citation is necessary to convince the court that if the Legislature previously enacted a law that conflicts with an initiative . . . ." (RB, p. 31.)

By the express terms of section 11362.5(b)(2), previous legislative enactments made to protect the safety of the public are not in conflict with the right to "obtain and use" marijuana for certain medical purposes. Rather, the ability to obtain and use is specifically limited by these legislative enactments. Petitioner's argument is directly contrary to the first part of section 11362(b)(2) and fails for that reason. The plain language of the statute clearly accepts all existing public safety legislation and merely permits an affirmative defense in the case of only two sections.

Thus, the extent of the "right" to obtain and use under section 11362.5 is narrowly prescribed. The boundaries are the other legislative acts designed to protect the public safety. Prominent among these acts are the various Health and Safety Code sections prohibiting sale, transportation and maintaining a location for sale, etc., of marijuana.

It's for this reason that section 11362.5(1)(c) entrusts the development of a system of distribution to the efforts of the state and federal governments not to a group of self-appointed sellers acting without complying with the Sherman Act and contrary to the limitations placed on sale, transport, and maintaining a sale location by the Health and Safety Code.

To facilitate the narrow purpose, the act in subsection 11362.5(d), mentions only two sections, section 11357 (possession) and section 11358 (cultivation), which are subject to the affirmative defense enacted as part of the narrow medical use law.[7] Once again the rule of "*expressio unius est exclusio alterius*" (see *Wildlife Alive, supra*) applies.

Respondents cannot escape the plain meaning of the language of the statute. Section 11362.5 was specifically made subject to all legislative enactments designed to prevent conduct that endangers others, including nuisance laws, the Sherman Act, and the remaining Health and Safety Code provisions controlling marijuana.

Given that sale of controlled substances by anyone other than a pharmacist filing a prescription is prohibited and that sale of marijuana is itself unlawful, Judge Garcia's order cannot stand because it permits a sale. An institution or group of persons who sell are not protected by Health and Safety Code section 11362.5 and may not use that section as an affirmative defense to the sale charge. A place maintained for marijuana sales is a nuisance and shall be enjoined regardless section 11362.5.

Judge Garcia exceeded his jurisdiction when he concluded that a sale could be made by an organization or by individuals so long as they made no net profit. An organization or individuals who sell are not primary caregivers because, like patients, primary caregivers are

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7. It is helpful to note that even if a true patient or true primary caregiver elects not to cultivate (or has plants that have not matured) and purchases, he or she is still protected. Obtaining by purchase is not a crime. As to the purchaser, the charge would be possession and, therefore, he or she would be protected by the provisions of section 11362.5 if all other qualifications were met.

persons who possess (not possess for sale) or who cultivate for the direct use of the patient in an amount no greater than that patient requires.[8/]

Respondent argues that Judge Garcia had to decide as he did because that was the only way to ensure a supply of marijuana (RB, p. 14). It was the case that Judge Garcia felt compelled to address the manner in which he believed the statute had to be constructed (see Transcript of January 8, 1997, p. 6, lines 22-28, and p. 7, lines 1-11). However, courts are not permitted to weigh the wisdom of a statute approved by the electorate (*Cal Farm Ins. Co.* v. *Deukmejian* (1989) 48 Cal.3d 805, 814; see also *California Gillnetters, supra,* at p. 1156). Section 11362.5 does not permit sales. It does not permit maintaining facilities from which sales are made. While this may have struck Judge Garcia as ill-advised and overly narrow, he was not at liberty to reconstruct the statute by permitting sales from a facility maintained for sales.

Judge Garcia's action was in excess of his jurisdiction and should be set aside.

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8. Appellant continues to argue that Respondents are not primary caregivers because of the plain language of section 11362.5(c) (see AOB, pp. 15-22 and Argument IV, *infra*.)

III.

EXAMINATION OF THE BALLOT PAMPHLET MATERIALS STRENGTHENS APPELLANT'S ARGUMENTS

The primary materials employed to resolve any ambiguous terms in an initiative are the materials contained in the ballot pamphlet (*People Ex. Rel. Lungren, supra*, at 305-307; *People* v. *Hazelton, supra*, at 105-107 and 109), especially the arguments in favor of the measure (see *State of California* v. *Superior Court* (1962) 208 Cal.App.2d 659, 664).

As Appellant previously noted, Respondents' Brief is replete with attributions of knowledge to and statements regarding intention of "the voters". Almost all of these attributions are without any citation to the ballot pamphlet materials for the very good reason that the ballot materials do not support them. It is useful, however, to examine some of those statements offered by Respondent because this analysis illustrates how these ballot materials support Appellant's arguments.

As an example, Respondents state, at RB, page 10:

> ". . . the voters made it clear . . . the patient and his or her caregiver are immune from prosecution or sanction."

The word "immune" does not appear in section 11362.5. The phrases used are "are not subject to" (subsection 11362.5(b)(1)(B) and "shall not apply to" (subsection 11362.5(d)). However, a person must bring him or herself within the defense by showing the possession or cultivation was done with the recommendation of a licensed California physician and only to the extent necessary to meet the medical needs of the patient. Thus, the issue is whether these phrases, in context, mean "cannot be prosecuted" or whether they mean "cannot be successfully prosecuted if a valid physician recommendation is proved to the trier of fact's satisfaction." The meaning is ambiguous. When

the ballot materials are examined, however, both the proponents' arguments make it clear that what is provided is an affirmative defense to a charge of simple possession or cultivation. The primary proponent's argument (AA, p. 215) states that patients may use marijuana ". . . if and only if, they have the approval of a licensed physician." The burden of proving this fact is on the person accused of possession. (See Evid. Code, §§ 500 and 550.) The rebuttal argument offered by the proponents is equally clear (AA, p. 216), it states:

> "Proposition 215 simply gives those arrested a defense in court, *if they can prove they used marijuana with a doctor's approval.*" (Emphasis in original.)

The statute provides an affirmative defense, nothing more. (See *People* v. *George* (1994) 30 Cal.App.4th 262, 274-275; *People* v. *Palma* (1995) 40 Cal.App.4th 240, 244-245; see especially *People* v. *Martinez* (1953) 117 Cal.App.2d 701, 708.)

Another example of Respondents' misperception of the ballot materials is found at RB, page 21, where Respondents stated:

> "The voters were keenly aware that purchasing of marijuana would be necessary in order to possess marijuana and thereby foresaw the proposition as authorizing the distribution of medical marijuana through traditional economic channels."

Ignoring the fact that the face of section 11362.5(b)(1)(C) specifically reserved the development of a distribution system to the federal and state governments rather than "traditional economic channels", the ballot pamphlet materials evidence no "keen awareness" of any need to purchase and do not appear to envision purchase. What they do show is that it was contemplated that patients and caregivers would cultivate their own marijuana, not engage in use of traditional commerce (buying and selling) to obtain it:

". . . to allow persons to grow or possess marijuana . . ." (purchase or sale not mentioned) (Analysis by the Legislative Analyst (AA, p. 187).)

". . . also allows caregivers to grow and possess marijuana for a person for whom the marijuana is recommended." (purchase or sale not mentioned) (Analysis by the Legislative Analyst (AA, p. 187).)

". . . allows patients to cultivate their own marijuana simply because federal laws prevent the sale of marijuana. . . ." (clearly doesn't contemplate purchase or sale because it recognizes that sales are unlawful and will remain unlawful) (Proponents' primary argument (AA, p. 215).)

"Proposition 215 . . . only allows marijuana to be grown for a patient's personal use. Police officers can still arrest anyone who grows too much or tries to sell it." (clearly doesn't contemplate purchase or sale because it recognizes that sales will remain unlawful) (Proponents' rebuttal argument (AA, p. 216).)

With respect to the proponents' rebuttal argument, Respondents (see RB, p. 20) ignore the plain meaning of this argument because it doesn't fit their view of section 11362.5. The language is that the police may arrest *anyone* (patient or primary caregiver included) who grows more than the medically necessary amount or (not and) *anyone* (patient or primary caregiver included) who tries to sell it (marijuana) in any amount.

Respondents' propensity to read the ballot materials selectively simply illustrates their need to construct a statute different than that passed by the voters in order to sustain the incorrect position they advocate.

Another example of Respondents' practice is found at RB 25. Regarding the Attorney General's Summary which properly described *both* of the limitations set out in subsection 11362.5(b) (RB, p. 25; AA, p. 188), Respondents said:

> "Thus, the voters were again made aware that the initiative contained provisions which would permit diversion of medical marijuana." (RB, p. 25.)

As petitioner has already shown, the ballot materials talk about cultivation, not diversion. The language of the statute, to which the Attorney General's Summary refers, states plainly that:

> "*Nothing* in this section [11362.5] shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others. . . ." (Subsection 11362.5(b)(2), emphasis added.)

Such legislation includes prohibition of sales of marijuana (Health & Saf. Code, § 11360), possession for sale (Health & Saf. Code, § 11359) and maintaining a facility for unlawful sales (Health & Saf. Code, § 11366).[9/] Respondents' apparent assumption that ignoring a portion of the statute is appropriate construction of the statute ignores the rule that any construction must harmonize the statute internally and avoid making terms surplus. Simply put, the statute does not discuss nor authorize "diversion" (Respondent's euphemism for sale) of marijuana. It permits a small group of persons to defend against changes of possession or cultivation on the basis of medical recommendation.

The lengths to which Respondents have gone to deny the existence of the first portion of section 11362.5(b)(2) is shown at RB, pages 25-26; where they state:

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9. Health and Safety Code section 111470 makes it clear that the only place where a lawful sale of marijuana could theoretically occur would be a licensed pharmacy. A "pharmacy like" facility is not a pharmacy. Such a facility is in violation of section 11366 and must be enjoined. (Health & Saf. Code, § 11570.)

The electorate, as we have seen from the plain language of the statute they enacted as well as the ballot materials submitted to them, simply did not approve marijuana sales from any facility.

> "The plain words of the codified purpose exemplifies why more than the laws prohibiting possession and use *were superseded* in the context of medical marijuana." (Emphasis added.)

The plain words of the statute are that "Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others."

Respondents' argument that the statute was broadly intended to permit facilities to exist for the purpose of selling marijuana for medical purposes is unsupported by the statute and by the ballot materials. Judge Garcia's conclusion that primary caregivers could be other than persons was somehow "implicit" (Transcript of January 7, 1997, p. 4) in the statute was simply wrong and should be set aside.

IV.

CONSTRUCTION OF THE PLAIN TERMS OF SECTION 11362.5 DEMONSTRATES THAT ONLY A PERSON MAY BE A PRIMARY CAREGIVER

Appellant submits that the argument made in the opening brief has already demonstrated that a primary caregiver must be a person not an enterprise.

The arguments made in Argument II of this Reply Brief support this contention. The plain language of section 11362.5(b)(2) states that Health and Safety Code sections 11366 and 11366.5 are not superseded. The voters obviously *did not* approve of facilities prohibited by these sections and intended that their maintenance remained subject to prosecution or injunction.

In addition to these arguments there is the interplay between the plain language of subsections 11362.5(b)(2) and 11362.5(e).

As has already been shown, subsection 11362.5(b)(2)'s first clause mandates that the possession and cultivation of marijuana for medical purposes must operate within the narrow confines of the existing legislative scheme placing controls on marijuana. Among these controls are the prohibition on sales and the prohibition on maintaining a facility for sales.

Respondents argue that the word "individual" means something other than person. (RB, pp. 32-36.) They must make this contention to support Judge Garcia's incorrect conclusion that a primary caregiver can be an enterprise such as their enterprise.

If this argument was valid, it would mean that an enterprise could engage in conduct that endangers others because subsection 11362.5(b)(2) applies only to "persons". This would be an absurd result and is to be avoided. It is particularly absurd given the focus of subsection 11362.5(b)(1)(C) on developing a ". . . safe . . ." distribution system.

CONCLUSION

For all of the reasons set forth in this Reply and in the opening brief, Appellant submits that the trial court's order modifying the judgment must be set aside insofar as it permits Respondents to maintain an enterprise selling marijuana to thousands of persons.

Dated: July 18, 1997.

Respectfully submitted,

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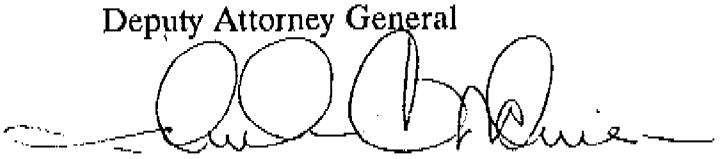

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APPENDIX

Proposition 132: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding an article thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED ADDITION OF ARTICLE XB

The people of California find and declare that:

The marine resources of the State of California belong to all of the people of the state and should be conserved and managed for the benefit of all users and people concerned with their diversity and abundance for present and future generations' use, needs and enjoyment. Current state laws allow the use of indiscriminate and destructive gear types (gill nets and trammel nets) for the commercial take of fish in our nearshore waters that entangle thousands of mammals (whales, dolphins, sea otters, sea lions, porpoise, etc.) sea birds and hundreds of thousands of non-targeted fish annually. These indiscriminate gear types result in the tragic death of many non-targeted species unfortunate enough to be caught in them. It has been reported that seventy-two (72) percent of what is entangled and caught in a gill net or trammel net is unmarketable, and it is returned to the ocean dead or near dead, thereby depleting our ocean resources at an accelerated rate.

In order to restore and maintain our ocean resources, increased scientific and biological research and reliable data collection is urgently needed to provide credible information as to the long-term protection and management of the mammal and fish populations in our coastal waters. Therefore, the law governing the use of gill nets and trammel nets in our coastal waters, as well as law establishing ecological reserves for scientific and biological studies and data collection to ensure abundant ocean resources should be permanently established as follows:

Amendment to the California Constitution adding Article XB as follows:

ARTICLE XB

MARINE RESOURCES PROTECTION ACT OF 1990

SECTION 1. This article shall be known and may be cited as the Marine Resources Protection Act of 1990.

SEC. 2. (a) "District" means a fish and game district as defined in the Fish and Game Code by statute on January 1, 1990.

(b) Except as specifically provided in this article, all references to Fish and Game Code sections, articles, chapters, parts, and divisions are defined as those statutes in effect on January 1, 1990.

(c) "Ocean waters" means the waters of the Pacific Ocean regulated by the state.

(d) "Zone" means the Marine Resources Protection zone established pursuant to this article. The zone consists of the following:

(1) In waters less than 70 fathoms or within one mile, whichever is less, around the Channel Islands consisting of the Islands of San Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolaus, Santa Barbara, Santa Catalina, and San Clemente.

(2) The area within three nautical miles offshore of the mainland coast, and the area within three nautical miles off any manmade breakwater, between a line extending due west from Point Arguello and a line extending due west from the Mexican border.

(3) In waters less than 35 fathoms between a line running 180 degrees true from Point Fermin and a line running 270 degrees true from the south jetty of Newport Harbor.

SEC. 3. (a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or trammel nets may only be used in the zone pursuant to a nontransferable permit issued by the Department of Fish and Game pursuant to Section 5.

(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone.

SEC. 4. (a) Notwithstanding any other provision of law, gill nets and trammel nets may not be used to take any species of rockfish.

(b) In ocean waters north of Point Arguello on and after the effective date of this article, the use of gill nets and trammel nets shall be regulated by the provisions of Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680) and Article 6 (commencing with Section 8720) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, or any regulation or order issued pursuant to these articles, in effect on January 1, 1990, except that as to Sections 8680, 8681, 8681.7, and 8682, and subdivisions (a) through (f), inclusive of Section 8681.5 of the Fish and Game Code, or any regulation or order issued pursuant to these sections, the provisions in effect on January 1, 1959, shall control where not in conflict with other provisions of this article, and shall be applicable to all ocean waters. Notwithstanding the provisions of this section, the Legislature shall not be precluded from imposing more restrictions on the use and/or possession of gill nets or trammel nets. The Director of the Department of Fish and Game shall not authorize the use of gill nets or trammel nets in any area where the use is not permitted even if the director makes specified findings.

SEC. 5. The Department of Fish and Game shall issue a permit to use a gill net or trammel net in the zone for the period specified in subdivision (a) of Section 3 to any applicant who meets both of the following requirements:

(a) Has a commercial fishing license issued pursuant to Sections 7850–7852.3 of the Fish and Game Code.

(b) Has a permit issued pursuant to Section 8681 of the Fish and Game Code and is presently the owner or operator of a vessel equipped with a gill net or trammel net.

SEC. 6. The Department of Fish and Game shall charge the following fees for permits issued pursuant to Section 5 pursuant to the following schedule:

Calendar Year	*Fee*
1991	*$250*
1992	*500*
1993	*1,000*

SEC. 7. (a) Within 90 days after the effective date of this section, every person who intends to seek the compensation provided in subdivision (b) shall notify the Department of Fish and Game, on forms provided by the department, of that intent. Any person who does not submit the form within that 90 day period shall not be compensated pursuant to subdivision (b). The department shall publish a list of all persons submitting the form within 120 days after the effective date of this section.

(b) After July 1, 1993, and before January 1, 1994, any person who holds a permit issued pursuant to Section 5 and operates in the zone may surrender that permit to the department and agree to permanently discontinue fishing with gill or trammel nets in the zone, for which he or she shall receive, beginning on July 1, 1993, a one time compensation which shall be based upon the average annual ex vessel value of the fish other than any species of rockfish landed by a fisherman, which were taken pursuant to a valid general gill net or trammel net permit issued pursuant to Sections 8681 and 8682 of the Fish and Game Code within the zone during the years 1983 to 1987, inclusive. The department shall verify those landings by reviewing logs and landing receipts submitted to it. Any person who is denied compensation by the department as a result of the department's failure to verify landings may appeal that decision to the Fish and Game Commission.

(c) The State Board of Control shall, prior to the disbursement of any funds, verify the eligibility of each person seeking compensation and the amount of the compensation to be provided in order to ensure compliance with this section.

(d) Unless the Legislature enacts any required enabling legislation to implement this section on or before July 1, 1993 no compensation shall be paid under this article.

SEC. 8. (a) There is hereby created the Marine Resources Protection Account in the Fish and Game Preservation Fund. On and after January 1, 1991, the Department of Fish and Game shall collect any and all fees required by this article. All fees received by the department pursuant to this article shall be deposited in the account and shall be expended or encumbered to compensate persons who surrender permits pursuant to Section 7 or to provide for administration of this article. All funds received by the department during any fiscal year pursuant to this article which are not expended during that fiscal year to compensate persons as set forth in Section 7 or to provide for administration of this article shall be carried over into the following fiscal year and shall be used only for those purposes. All interest accrued from the department's retention of fees received pursuant to this article shall be credited to the account. The accrued interest may only be expended for the purposes authorized by this article. The account shall continue in existence, and the requirement to pay fees under this article shall remain in effect, until the compensation provided in Section 7 has been fully funded or until January 1, 1995, whichever occurs first.

(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the account excluding any interest accrued or any funds carried over from a prior fiscal year may be expended for the administration of this article.

(c) In addition to a valid California sportfishing license issued pursuant to Sections 7149, 7149.1 or 7149.2 of the Fish and Game Code and any applicable sport license stamp issued pursuant to the Fish and Game Code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for sport purposes shall have permanently affixed to that person's sportfishing license a marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3). This subdivision does not apply to any one-day fishing license.

(d) In addition to a valid California commercial passenger fishing boat license required by Section 7920 of the Fish and Game Code, the owner of any boat or vessel who, for profit, permits any person to fish from the boat or vessel in ocean waters south of a line extending due west from Point Arguello, shall obtain and permanently affix to the license a commercial marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3).

(e) The department may accept contributions or donations from any person who wishes to donate money to be used for the compensation of commercial gill net and trammel net fishermen who surrender permits under this article.

(f) This section shall become inoperative on January 1, 1995.

SEC. 9. Any funds remaining in the Marine Resources Protection Account in the Fish and Game Preservation Fund on or after January 1, 1995, shall, with the approval of the Fish and Game Commission, be used to provide grants to colleges, universities and other bonafide scientific research groups to fund marine resource related scientific research within the ecological reserves established by Section 14 of this act.

SEC. 10. On or before December 31 of each year, the Director of Fish and Game shall prepare and submit a report to the Legislature regarding the implementation of this article including an accounting of all funds.

SEC. 11. It is unlawful for any person to take, possess, receive, transport, purchase, sell, barter, or process any fish obtained in violation of this article.

SEC. 12. To increase the state's scientific and biological information on the ocean fisheries of this state, the Department of Fish and Game shall establish a program whereby it can monitor and evaluate the daily landings of fish by commercial fishermen who are permitted under this article to take these fish. The cost of implementing this monitoring program shall be borne by the commercial fishing industry.

SEC. 13. (a) The penalty for a first violation of the provisions of Sections 3 and 4 of this article is a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter or process

fish for commercial purposes for six months. The penalty for a second or subsequent violation of the provisions of Sections 3 and 4 of this article is a fine of not less than two thousand five hundred dollars ($2,500) and not more than ten thousand dollars ($10,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for one year.

Notwithstanding any other provisions of law, a violation of Section 8 of Article shall be deemed a violation of the provisions of Section 7145 of the Fish and Game Code and the penalty for such violation shall be consistent with the provisions of Section 12002.2 of said code.

(c) If a person convicted of a violation of Section 3, 4, or 8 of this article is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.

SEC. 14. Prior to January 1, 1991, the Fish and Game Commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources.

SEC. 15. This article does not preempt or supersede any other closures to protect any other wildlife, including sea otters, whales, and shorebirds.

SEC. 16. If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Proposition 133: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds and repeals a division of the Health and Safety Code, adds a section to the Penal Code, and amends, repeals, and adds sections of the Revenue and Taxation Code; therefore, existing sections proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. (a) This measure shall be known and may be cited as the Safe Streets Act of 1990.

(b) It is the intent of the people, through the adoption of the California Safe Streets Act of 1990, to ensure all of the following:

(1) Repeat violent offenders and drug criminals serve out their full sentences.

(2) Law enforcement has the capability to reduce drug-related crime.

(3) Children are kept from entering the world of drug abuse.

SEC. 2. The people find and declare all of the following:

(a) The number of drug-related major crimes in California is increasing every year, reflecting the growing impact of the drug crisis and the fact that reducing illegal drug activity is an integral part of the effort to reduce crime.

(b) Many major crimes are committed by repeat offenders who have been released from prison before they serve their full sentences.

(c) Federal assistance in the war on drugs has fallen far behind the increased need.

(d) Drug abuse costs California society at least six billion dollars ($6,000,000,000) a year.

(e) Eleven percent of babies born in the United States in 1988 were exposed to illegal drugs during the mother's pregnancy.

(f) Drug use and violent crime are closely related, as evidenced by the finding that more than half of those arrested for serious crimes in 14 major cities, and who volunteered for drug testing, are found to be drug users.

(g) Drug-related absenteeism and medical expenses cost businesses about 3 percent of their payroll.

(h) Thousands of transactions involving illegal drugs occur in the open because there are not enough law enforcement personnel to establish a presence.

(i) A successful attempt to fight the war on drugs must be comprehensive, guaranteeing punishment for those who violate the law, and protecting children before they become involved with drugs.

SEC. 3. Division 10.7 (commencing with Section 11999) is added to the Health and Safety Code, to read:

DIVISION 10.7. SAFE STREETS FUND

11999. (a) There is in the Treasury the Safe Streets Fund, which is continuously appropriated, without regard to fiscal years, to the Controller, for allocation as specified in this division.

(b) Money appropriated pursuant to subdivision (a) shall be subject to all of the following requirements:

(1) It shall be used only for the purposes specified in this section.

(2) It shall not be used to supplant current levels of funding for existing programs, plus normal cost-of-living increases, on the date the measure adding this section to the Health and Safety Code is adopted by the voters.

(3) It shall be used only to supplement current and future state funding levels appropriated from sources other than this section.

(4) It shall not be used as part of the Special Fund for Economic Uncertainties or any other reserves.

(c) Any state or local government entity receiving funds through this section shall maintain a level of financial support for a program funded under this division which is not less than previous expenditures in accordance with standards set by any entity allocating funds pursuant to this division, which, for purposes of this subdivision, shall include the Attorney General, the Superintendent of Public Instruction, the Secretary of the Youth and Adult Correctional Agency, and the Secretary of Health and Welfare, as appropriate.

11999.1. Funds allocated to the fund and any of its accounts pursuant to this division shall not revert to the General Fund.

11999.2. Pursuant to Section 4 of Article XIII B of the California Constitution, the state appropriations limits established by Article XIII B thereof shall be adjusted to include the appropriations made by this division for the four-year period commencing July 1, 1991.

11999.3. (a) There is in the fund the Anti-Drug Law Enforcement Account.

(b) Forty percent of any money received by the fund shall be transferred to the Anti-Drug Law Enforcement Account.

(c) Money in the Anti-Drug Law Enforcement Account shall be allocated in the following manner:

(1) Ninety percent shall be allocated to the Attorney General for distribution to local law enforcement agencies of cities, cities and counties, and counties, for personnel, equipment, and activities related to street level law enforcement. These funds shall also be used to support community organizations attempting to fight crime and drugs. These funds shall be distributed pursuant to a formula developed by the Attorney General, in consultation with local law enforcement officials from throughout the state, which takes into account the following factors:

(A) Population.

(B) Gang activity.

(C) Property crime.

(D) Demographics.

(E) Local drug seizures.

(F) Rates of drug-related arrests and convictions.

(G) Other factors determined by the Attorney General to be relevant to those anti-drug activities described in this section.

(2) Five percent shall be allocated to the Attorney General for distribution to district attorneys' offices to increase their prosecutorial capabilities. The funds shall be distributed pursuant to a formula developed by the Attorney General, in consultation with the district attorneys throughout the state, which takes into account those factors listed in paragraph (1).

(3) Five percent shall be allocated to the Judicial Council to increase the ability of the courts to process drug-related cases. The funds shall be used to fund new judgeships and their associated costs. Funds allocated pursuant to this subparagraph which are not used for new judgeships at the end of the fiscal year shall be allocated by the Judicial Council, on a grant basis, to counties for programs which will substantially contribute to the resolution of drug-related cases.

11999.4. (a) There is in the fund the Anti-Drug Education Account.

(b) Forty-two percent of any money received by the fund shall be transferred to the Anti-Drug Education Account, which shall be distributed to the Superintendent of Public Instruction, for allocation as follows:

(1) Twenty-five percent of funds in the account shall be allocated to schools for anti-drug education and counseling programs, including peer counseling programs, which may be conducted during or after normal school hours. All school districts and county offices of education shall provide age-appropriate anti-drug instruction in grades K to 12, inclusive, in compliance with guidelines established by the Superintendent of Public Instruction. Funds shall be allocated pursuant to this paragraph pursuant to the following requirements:

(A) Seventy percent shall be allocated annually to eligible school districts and county offices of education in equal amounts per unit of average daily attendance. For purposes of this subdivision, the Superintendent of Public Instruction shall use annual average daily attendance reported for the fiscal year immediately prior to the year of allocation. No school district shall be eligible to receive funds pursuant to this subdivision until the appropriate county superintendent of schools has certified to the Superintendent of Public Instruction that the local educational agency's program is in accordance with the guidelines established by the Superintendent of Public Instruction.

(B) Thirty percent shall be allocated to school districts or county offices of education for schools, which, as determined by the Superintendent of Public Instruction, require the funds due to the high intensity of drug abuse activity in the agency's jurisdiction.

(2) Twenty percent of funds in the account shall be granted or allocated by contract by the Superintendent of Public Instruction to school districts, county offices of education, community organizations, and agencies of local government, for out-of-classroom programs designed to provide students with alternative activities to drug use, and to teach self-respect and respect for others, including, but not limited to, afterschool athletic programs, homework centers, parental involvement programs, job experience programs with private employers, and community work programs. The amount of any grant or contract made pursuant to this subdivision shall be determined by the Superintendent of Public Instruction, provided that the total allocations made to agencies within a county are proportional to public school enrollment of that county.

(3) Thirty-five percent of funds in the account shall be allocated by the Superintendent of Public Instruction to agencies that operate state approved child development and preschool programs that, as determined by the Superintendent of Public Instruction, require the funds due to the high intensity of drug abuse activity in the agency's jurisdiction. The amount of any allocation made pursuant to this subparagraph shall be determined by the Superintendent of Public Instruction, provided that the total allocations made to agencies within a county are proportioned according to the existing allocation formula. The Superintendent of Public Instruction shall give priority to programs in the following order:

(A) Programs which serve children identified pursuant to guidelines adopted by the Superintendent of Public Instruction as being at risk of unlawful drug use or involvement.

(B) State-approved preschool programs.

DECLARATION OF SERVICE

Case Name: **People v. Peron, et al.**

Case No.: **A077630**

I declare:

I am employed in the County of Sacramento, California. I am 18 years of age or older and not a party to the within entitled cause; my business address is 1300 I Street, P.O. Box 944255, Sacramento, California 94244-2550.

On July 21, 1997, I served the attached

Appellant's Reply Brief

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California, addressed as follows:

J. David Nick, Esq.
Michael K. Tcheng
Law Offices of J. David Nick
Hayes Valley, 294 Page Street
San Francisco, CA 94102

Superior Court of San Francisco
Civil Division
633 Folsom Street
San Francisco, CA 94102

Supreme Court, State of California
303 2nd Street
San Francisco, CA 94102

I declare under penalty of perjury the foregoing is true and correct and that this declaration was executed on July 21, 1997, at Sacramento, California.

Signature

07/08/1997 14:41 FROM Madera County NET T.P. TO 919163242960 P.03

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RESUME - EUGENE SCHOENFELD, M.D.

Dr. Schoenfeld is a psychiatrist in private practice, specializing in psychopharmacology and the evaluation of sexual disorders. His work in psychopharmacology includes the study, diagnosis, and treatment of problems related to drug abuse and addiction. Since 1983, he has served on the Advisory Board of the Journal Of Psychoactive Drugs.

Between 1967-73 and in 1978-79, he wrote the Hip Pocrates column, a syndicated newspaper feature which answered questions about sexuality, as well as psychoactive drugs. During this time, he was elected to the Board of Directors of Modern Medicine, a periodical for physicians, and produced a series of articles for that publication about sex and drug issues. He has also written numerous articles on these topics for other medical journals and for popular magazines. He is the author of four books: Dear Dr. Hip Pocrates, Natural Food And Unnatural Acts, Jealousy: Taming The Green-Eyed Monster, and Dr. Hip's Down-To-Earth Health Guide.

Addiction Medicine is a medical specialty recognized by the American Medical Association. Dr. Schoenfeld is certified in the treatment of alcoholism and other drug dependencies through examination by the American Society of Addiction Medicine, Certificate # 000850, 1986. He was a member of the first group of physicians certified as a specialist in this field.

His psychiatric experience began in 1966 as a staff member of San Francisco's Center For Special Problems, which treats drug abuse and sexual disorders. Later, he was affiliated with the Haight-Ashbury Free Clinic, became Associate Medical Director for the residential treatment facility of Marin A.C.T., and was appointed Medical Director for the Drug Abuse Section of the Free Clinic in Davis, California. From 1983-87, he was Medical Director of the Steinbeck Treatment Center, the chemical dependency treatment unit of Salinas Community Hospital. In 1988-89, he was Attending Physician in the Department of Psychiatry of the San Francisco Veterans Administration Medical Center, then entered private practice.

Dr. Schoenfeld is a member of the court-appointed psychiatrist panels for the Superior Courts of Alameda County, Marin County, and San Francisco, CA. He was selected as a Distinguished Alumnus of the University of Miami School of Medicine in March, 1997.

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EDUCATION

A.B.	University of California - Berkeley, California	1955
M.D.	University of Miami - Miami, Florida	1961
Intern	Herrick Hospital - Berkeley, California	1961-2
M.P.H.	Yale University - New Haven, Connecticut	1964
Resident	Department of Psychiatry - Mt. Zion Hospital San Francisco, California	1967

MEDICAL PRACTICE

1989-present	1417A Bridgeway - Suite 8 Sausalito, CA 94965 and Ferry Building - Suite 291 San Francisco, CA 94111	PRIVATE PRACTICE
1988-89	Department of Psychiatry Veterans Administration Medical Center 4150 Clement Street San Francisco, CA 94121	ATTENDING PHYSICIAN
1983-87	Steinbeck Treatment Center Community Hospital of Salinas 970 Circle Drive Salinas, CA 94121	MEDICAL DIRECTOR
1981-82	Davis Free Clinic Davis, California	MEDICAL DIRECTOR, DRUG ABUSE SECTION
1980-82	Sutter-Davis Hospital Davis, California	EMERGENCY PHYSICIAN
1978-79	St. Luke's Hospital San Francisco, California	EMERGENCY PHYSICIAN

1975-78	Valley Emergency Medical Group Bakersfield, California	EMERGENCY PHYSICIAN
1974	Haight/Ashbury Free Clinics San Francisco, California	CHIEF, DEPARTMENT OF FAMILY PRACTICE
1970-75	Medical Writer Self-Employed	AUTHOR, DR. HIP NEWSPAPER COLUMNS AND BOOKS
1966-70	Student Health Service University of California at Berkeley	STAFF PHYSICIAN
1965-66	Albert Schweitzer Hospital Lambarene, Gabon West Equatorial Africa	RESEARCH FELLOWSHIP, INTERNATIONAL CARDIOLOGY FOUNDATION
Summer, 1964	S.S. Constitution American Export Lines	SHIP'S SURGEON
1964-65	Nursing Home Research Project Alameda County Health Department Oakland, California	COORDINATOR
1962-63	Fairmont-Alameda County Hospital San Leandro, California	STAFF PHYSICIAN

HONORS AND AWARDS

Distinguished Alumnus, University of Miami School of Medicine - selected in March, 1997

Psychotherapy Provider, Federal Probation Office, District of Northern California - 1993 to 1995

Court-Appointed Psychiatrist Panel, Superior Court of San Francisco, CA - 1994 to present

Court-Appointed Psychiatrist Panel, Superior Court of Alameda County, CA - 1992 to present

Chief of Staff-Elect, Community Hospital of Salinas, CA - 1987

Chief of Medicine, Community Hospital of Salinas, CA - 1985-87

Certified in the treatment of alcoholism and other drug dependencies through examination by the American Society of Addiction Medicine - Certificate #000850 - 1986

Advisory Board, Journal of Psychoactive Drugs - 1983 to present

National Broadcasters Association Award, "Ask Dr. Hip" - 1976

Editorial Board, Modern Medicine, 1969-71

Diplomate of the National Board of Medical Examiners - 1962

Smith Kline & French Foreign Fellowship to Albert Schweitzer Hospital, Lambarene, Gabon - Summer, 1960

TEACHING APPOINTMENTS

Faculty, Osler Institute, Addiction Psychiatry Review Course
San Francisco, CA - March, 1993
Los Angeles, CA - August, 1994
Lecture - "Cocaine: Clinical and Neurobiological Issues"
Lecture - "Prohibition and Criminal Justice"

University of California School of Medicine at Davis,
Department of Family Practice
Assistant Clinical Professor - 1982-83
Clinical Instructor - 1981-82

Lecturer, Haight/Ashbury Free Clinics Trainee Program - 1974-76
San Francisco, California

Lecturer, University of California at Berkeley Extension, Course in Pre-Paid Health Care Plans - 1965-66

PUBLICATIONS

MEDICAL JOURNALS:

"Divine Intervention and the Treatment of Chemical Dependency", with Albert Ellis, Ph.D., J. Substance Abuse, Vol.2, No. 4, 1990

"Doing it in the Road: Folkways vs. Mores", Mental Hygiene, Vol. 54, NO. 3, July, 1970

"Comparative Effects of Mescaline and Amphetamines in Laboratory Animals", with John Buffum, Charles Fisher, and David Smith, J. Psychoactive Drugs, 1967

"Lambarene Without Schweitzer", J. American Medical Association, Vol. 200, pp. 830-832, June 5, 1967

"A Summer at Dr. Schweitzer's Hospital: Smith Kline & French Foreign Fellowship Report", J. of Medical Education, Vol. 36, No. 3, March, 1961

BOOKS:

The Down-To-Earth Health Guide, Celestial Arts Press, 1981

Jealousy: Taming The Green-Eyed Monster, Holt Rinehart and Winston, 1980

Natural Food And Unnatural Acts, Delacorte Press, 1974

Dear Dr. Hip Pocrates, Grove Press, 1969

ARTICLES:
"Hip Pocrates" syndicated newspaper columns, 1967-73 and 1978-79

Weekly medical column, Daily Californian, Salinas, CA, 1985-87

Numerous articles for periodicals, including Modern Medicine, Cosmopolitan, Learn, and Rolling Stone

COMMUNITY ACTIVITIES

RADIO:
Weekly on KITS-FM(LIVE 105), San Francisco, CA - 1993-96
Weekly on KMFO-AM, Aptos, CA - 1983-84
Daily on KFRC-AM, San Francisco, CA - 1975-76
Weekly on KSFO-AM, San Francisco, CA - 1973
Weekly on KSAN-FM, San Francisco, CA - 1971-72

TELEVISION: Mid-Day News Doctor, KSBW-TV, Salinas-Monterey - 1987

Field Coordinator, International Medical Teams, Cambodia-Thailand border - Winter, 1979

Board of Directors, American Heart Association, Marin Chapter, 1972-78

Board of Directors, San Francisco Suicide Prevention - 1990-92

MEDICAL LICENSES

California

Connecticut

Florida

PROFESSIONAL ORGANIZATIONS

American Society of Addiction Medicine

California Society of Addiction Medicine

Marin Psychiatric Society