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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2619

12 **ANTHONY MARK RICIGLIANO**  
53 Toyon Way  
Carmel Valley, California 93924

OAH No. N2003050791

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

13 Registered Pharmacist License No. RPH 24818

14 Respondent.

15  
16 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the  
17 above-entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Patricia F. Harris ("Complainant") is the Executive Officer of the Board of  
20 Pharmacy ("Board"), Department of Consumer Affairs. She brought this action solely in her official  
21 capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of  
22 California, by Lisa S. Wiggins, Deputy Attorney General.

23 2. Respondent Anthony Mark Ricigliano ("Respondent") is represented in this  
24 proceeding by attorney Gregory P. Matzen, whose address is Lewis, Brisbois, Bisgaard & Smith,  
25 LLP, 2500 Venture Oaks Drive, Suite 200, Sacramento, California 95833.

26 3. On or about November 7, 1966, the Board issued Registered Pharmacist  
27 License No. RPH 24818 to Respondent. The License was in full force and effect at all times relevant  
28 to the charges brought in Accusation No. 2619 and will expire on December 31, 2004, unless

1 renewed.

2 **JURISDICTION**

3 4. Accusation No. 2619 was filed before the Board and is currently pending  
4 against Respondent. The Accusation and all other statutorily required documents were properly  
5 served on Respondent on May 6, 2003. Respondent timely filed his Notice of Defense contesting  
6 the Accusation. A copy of Accusation No. 2619 is attached as **Exhibit A** and incorporated herein  
7 by reference.

8 **ADVISEMENT AND WAIVERS**

9 5. Respondent has carefully read, fully discussed with counsel, and understands  
10 the charges and allegations in Accusation No. 2619. Respondent has also carefully read, fully  
11 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
12 Order.

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

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

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in  
24 Accusation No. 2619.

25 9. Respondent agrees that his Registered Pharmacist License is subject to  
26 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the  
27 Disciplinary Order below.

28 ///



- 1 • an arrest or issuance of a criminal complaint for violation of any provision of the  
2 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
substances laws;
- 3 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
4 criminal complaint, information or indictment;
- 5 • a conviction of any crime;
- 6 • discipline, citation, or other administrative action filed by any state and federal  
7 agency which involves Respondent's Registered Pharmacist License or which is  
related to the practice of pharmacy or the manufacturing, obtaining, handling or  
distribution or billing or charging for any drug, device or controlled substance.

8           **2. Reporting to the Board.** Respondent shall report to the Board quarterly. The  
9 report shall be made either in person or in writing, as directed. Respondent shall state under penalty  
10 of perjury whether there has been compliance with all the terms and conditions of probation. If the  
11 final probation report is **not** made as directed, probation shall be extended automatically until such  
12 time as the final report is made and accepted by the Board.

13           **3. Interview with the Board.** Upon receipt of reasonable notice, Respondent  
14 shall appear in person for interviews with the Board upon request at various intervals at a location  
15 to be determined by the Board. Failure to appear for a scheduled interview without prior notification  
16 to Board staff shall be considered a violation of probation.

17           **4. Cooperation with Board Staff.** Respondent shall cooperate with the  
18 Board's inspection program and in the Board's monitoring and investigation of Respondent's  
19 compliance with the terms and conditions of His probation. Failure to comply shall be considered  
20 a violation of probation.

21           **5. Continuing Education.** Respondent shall provide evidence of efforts to  
22 maintain skill and knowledge as a pharmacist as directed by the Board.

23           **6. Notice to Employers.** Respondent shall notify all present and prospective  
24 employers of the decision in Case Number 2619 and the terms, conditions and restrictions imposed  
25 on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15  
26 days of Respondent undertaking new employment, Respondent shall cause his direct supervisor,  
27 pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer  
28 has read the decision in Case Number 2619.

1           If Respondent works for or is employed by or through a pharmacy employment  
2 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every  
3 pharmacy of the and terms conditions of the decision in Case Number 2619 in advance of the  
4 Respondent commencing work at each pharmacy.

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

7           **7. No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge**  
8 **(PIC), or Serving as a Consultant.** Respondent shall not supervise any intern pharmacist or  
9 perform any of the duties of a preceptor, nor shall Respondent be the pharmacist-in-charge of any  
10 entity licensed by the Board unless otherwise specified in this order.

11           **8. Reimbursement of Board Costs.** Respondent shall pay to the Board its  
12 costs of investigation and prosecution in the amount of \$2,000.00. Respondent shall make said  
13 payments in advanced quarterly installments.

14           The filing of bankruptcy by Respondent shall not relieve Respondent of his  
15 responsibility to reimburse the Board its costs of investigation and prosecution.

16           **9. Probation Monitoring Costs.** Respondent shall pay the costs associated with  
17 probation monitoring as determined by the Board each and every year of probation. Such costs shall  
18 be payable to the Board at the end of each year of probation. Failure to pay such costs shall be  
19 considered a violation of probation.

20           **10. Status of License.** Respondent shall, at all times while on probation,  
21 maintain an active current license with the Board, including any period during which suspension or  
22 probation is tolled.

23           If Respondent's license expires or is canceled by operation of law or otherwise, upon  
24 renewal or reapplication, Respondent's license shall be subject to all terms and conditions of this  
25 probation not previously satisfied.

26           **11. License Surrender while on Probation/Suspension.** Following the effective  
27 date of this decision, should Respondent cease practice due to retirement or health, or be otherwise  
28 unable to satisfy the terms and conditions of probation, Respondent may tender his license to the

1. Board for surrender. The Board shall have the discretion whether to grant the request for surrender  
2 or take any other action it deems appropriate and reasonable. Upon formal acceptance of the  
3 surrender of the license, Respondent will no longer be subject to the terms and conditions of  
4 probation.

5           Upon acceptance of the surrender, Respondent shall relinquish his pocket license to  
6 the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may  
7 not reapply for any license from the Board for three years from the effective date of the surrender.  
8 Respondent shall meet all requirements applicable to the license sought as of the date the application  
9 for that license is submitted to the Board.

10           **12. Notification of Employment/Mailing Address Change.** Respondent shall  
11 notify the Board in writing within 10 days of any change of employment. Said notification shall  
12 include the reasons for leaving and/or the address of the new employer, supervisor, or owner and  
13 work schedule if known. Respondent shall notify the Board in writing within 10 days of a change  
14 in name, mailing address, or phone number.

15           **13. Tolling of Probation.** Should Respondent, regardless of residency, for any  
16 reason cease practicing pharmacy for a minimum of forty (40) hours per calendar month in  
17 California, Respondent must notify the Board in writing within 10 days of cessation of the practice  
18 of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to  
19 the reduction of the probation period. It is a violation of probation for Respondent's probation to  
20 remain tolled pursuant to the provisions of this condition for a period exceeding three years.

21           "Cessation of practice" means any period of time exceeding 30 days in which  
22 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of  
the Business and Professions Code.

23           **14. Violation of Probation.** If Respondent violates probation in any respect, the  
24 Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and  
25 carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation  
26 is filed against Respondent during probation, the Board shall have continuing jurisdiction and the  
27 period of probation shall be extended, until the petition to revoke probation or accusation is heard  
28 and decided.

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

6           **15. Completion of Probation.** Upon successful completion of probation,  
7 Respondent's license will be fully restored.

8           **16. Medical Evaluation.** Within 30 days of the effective date of this decision,  
9 and on a periodic basis thereafter as may be required by the Board, Respondent shall undergo a  
10 medical evaluation, at Respondent's own expense, by a Board-appointed or Board approved  
11 physician who shall furnish a medical report to the Board. The medical report shall include  
12 documentation as to the medical necessity for requiring prescriptions for Respondent's use of  
13 diazepam (including, but not limited to, Valium®) and hydrocodone with acetaminophen (including,  
14 but not limited to, Norco®).

15           Respondent shall completely abstain from the possession or use of controlled  
16 substances, dangerous drugs, and their associated paraphernalia except when the drugs are lawfully  
17 prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of  
18 the Board, Respondent shall provide documentation from the licensed practitioner that the  
19 prescription was legitimately issued and is a necessary part of the treatment of the Respondent.

20           All reports/documentation required under this section shall be furnished directly to  
21 the Board from Respondent's prescribing health professional(s).

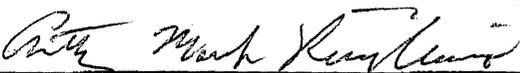
22           **17. Random Drug Screening.** Respondent, at his own expense, shall participate  
23 in random testing, including but not limited to biological fluid testing (urine, blood), hair follicle  
24 testing, or a drug screening program approved by the Board. The length of time shall be for the  
25 entire probation period and the frequency of testing will be determined by the Board. At all times  
26 Respondent shall fully cooperate with the Board, and shall, when directed, submit to such tests and  
27 samples for the detection of narcotics, hypnotics, dangerous drugs or other controlled substances.  
28 Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed

1 positive drug test, other than for drugs properly reported as required by Paragraph 16, shall result in  
2 the immediate suspension of practice by Respondent. Respondent may not resume the practice of  
3 pharmacy until notified by the Board in writing.

4 **ACCEPTANCE**

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have  
6 fully discussed it with my attorney, Gregory P. Matzen. I understand the stipulation and the effect  
7 it will have on my Registered Pharmacist License. I enter into this Stipulated Settlement and  
8 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision  
9 and Order of the Board of Pharmacy.

10 DATED: 11-14-03

11   
12 ANTHONY MARK RICIGLIANO  
13 Respondent

14 DATED: 11/10/03

15   
16 GREGORY P. MATZEN  
17 Attorney for Respondent

18 **ENDORSEMENT**

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
20 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

21 DATED: November 24, 2003

22 BILL LOCKYER, Attorney General  
23 of the State of California

24   
25 LISA S. WIGGINS  
26 Deputy Attorney General  
27 Attorneys for Complainant

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

In the Matter of the Accusation Against:

**ANTHONY MARK RICIGLIANO**  
53 Toyon Way  
Carmel Valley, California 93924

Registered Pharmacist License No. RPH 24818

Respondent.

Case No. 2619

OAH No. N2003050791

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 14, 2004.

It is so ORDERED January 15, 2004.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
JOHN D. JONES  
Board President

**Exhibit A**  
**Accusation No. 2619**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 LISA S. WIGGINS, State Bar No. 168399  
Deputy Attorney General  
3 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
4 San Francisco, CA 94102-7004  
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**BOARD OF PHARMACY**  
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10 In the Matter of the Accusation Against:

Case No. 2619

11 ANTHONY MARK RICIGLIANO  
12 53 Toyon Way  
Carmel Valley, California 93924

**A C C U S A T I O N**

13 Registered Pharmacist License No. RPH 24818

14 Respondent.  
15

16 Complainant alleges:

17 **PARTIES**

18 1. Patricia F. Harris ("Complainant") brings this Accusation solely in her official  
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about November 7, 1966, the Board of Pharmacy issued Registered  
21 Pharmacist License Number RPH 24818 to Anthony Mark Ricigliano ("Respondent"). The  
22 Registered Pharmacist License was in full force and effect at all times relevant to the charges brought  
23 herein and will expire on December 31, 2004, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Pharmacy ("Board"),  
26 Department of Consumer Affairs, under the authority of the following laws.

27 4. Business and Professions Code section 118(b) provides that the suspension,  
28 expiration, surrender, and/or cancellation of a license shall not deprive the Board of jurisdiction to

1 proceed with a disciplinary action during the period within which the license may be renewed,  
2 restored, reissued or reinstated.

3 5. Business and Professions Code section 4300 states:

4 "(a) Every license issued may be suspended or revoked.

5 "(b) The board shall discipline the holder of any license issued by the board, whose  
6 default has been entered or whose case has been heard by the board and found guilty, by any of the  
7 following methods:

8 "(1) Suspending judgment.

9 "(2) Placing him or her upon probation.

10 "(3) Suspending his or her right to practice for a period not exceeding one  
11 year.

12 "(4) Revoking his or her license.

13 "(5) Taking any other action in relation to disciplining him or her as the board  
14 in its discretion may deem proper.

15 6. Business and Professions Code section 4301 gives the Board the right to take  
16 action against a licensee who is guilty of unprofessional conduct. According to Section 4301,  
17 "[u]nprofessional conduct shall include, but is not limited to, any of the following:

18 ...

19 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit,  
20 or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
21 whether the act is a felony or misdemeanor or not.

22 ...

23 "(h) The administering to oneself, of any controlled substance, or the use of any  
24 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious  
25 to oneself, to a person holding a license under this chapter, or to any other person or to the public,  
26 or to the extent that the use impairs the ability of the person to conduct with safety to the public the  
27 practice authorized by the license.

28 ...

1                   "(l) The conviction of a crime substantially related to the qualifications, functions,  
2 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
3 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
4 substances or of a violation of the statutes of this state regulating controlled substances or dangerous  
5 drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of  
6 conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may  
7 inquire into the circumstances surrounding the commission of the crime, in order to fix the degree  
8 of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs,  
9 to determine if the conviction is of an offense substantially related to the qualifications, functions,  
10 and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a  
11 plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The  
12 board may take action when the time for appeal has elapsed, or the judgment of conviction has been  
13 affirmed on appeal or when an order granting probation is made suspending the imposition of  
14 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the  
15 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the  
16 verdict of guilty, or dismissing the accusation, information, or indictment.

17                   7.       Business and Professions Code section 490 states:

18                   "A board may suspend or revoke a license on the ground that the licensee has been  
19 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties  
20 of the business or profession for which the license was issued. A conviction within the meaning of  
21 this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.  
22 Any action which a board is permitted to take following the establishment of a conviction may be  
23 taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on  
24 appeal, or when an order granting probation is made suspending the imposition of sentence,  
25 irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

26                   8.       Business and Professions Code section 493 states:

27                   "Notwithstanding any other provision of law, in a proceeding conducted by a board  
28 within the department pursuant to law to deny an application for a license or to suspend or revoke

1 a license or otherwise take disciplinary action against a person who holds a license, upon the ground  
2 that the applicant or the licensee has been convicted of a crime substantially related to the  
3 qualifications, functions, and duties of the licensee in question, the record of conviction of the crime  
4 shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the  
5 board may inquire into the circumstances surrounding the commission of the crime in order to fix  
6 the degree of discipline or to determine if the conviction is substantially related to the qualifications,  
7 functions, and duties of the licensee in question.

8 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
9 'registration.'"

10 9. California Code of Regulations, title 16, section 1770, states that for the  
11 purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5  
12 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be  
13 considered substantially related to the qualifications, functions or duties of a licensee or registrant  
14 if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to  
15 perform the functions authorized by his license or registration in a manner consistent with the public  
16 health, safety, or welfare.

17 10. Business and Professions Code section 4060 states, in pertinent part, that:

18 "No person shall possess any controlled substance, except that furnished to a person  
19 upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a  
20 drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner  
21 pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1."

22 11. Business and Professions Code section 125.3 states, in pertinent part, that the  
23 Board may request the administrative law judge to direct a licentiate found to have committed a  
24 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
25 investigation and enforcement of the case.

#### 26 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

27 12. Health and Safety Code section 11550(a) states:

28 "No person shall use, or be under the influence of any controlled substance which is

1 (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,  
2 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified  
3 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or  
4 in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III,  
5 IV, or V, except when administered by or under the direction of a person licensed by the state to  
6 dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to  
7 show that it comes within the exception. Any person convicted of violating this subdivision is guilty  
8 of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one  
9 year in a county jail. The court may place a person convicted under this subdivision on probation  
10 for a period not to exceed five years and, except as provided in subdivision (c), shall in all cases in  
11 which probation is granted require, as a condition thereof, that the person be confined in a county  
12 jail for at least 90 days. Other than as provided by subdivision (c), in no event shall the court have  
13 the power to absolve a person who violates this subdivision from the obligation of spending at least  
14 90 days in confinement in a county jail."

15           13. Health and Safety Code section 11007 defines the term "Controlled  
16 Substance" as "a drug, substance, or immediate precursor which is listed in any schedule in [Health  
17 and Safety Code] Section 11054, 11055, 11056, 11057, or 11058."

18           14. Hydrocodone combined with acetaminophen is listed as a "Schedule III"  
19 controlled substance, under Health and Safety Code section 11056(e).

20           15. Norco<sup>®</sup> is one of the brand names for the combination of hydrocodone and  
21 acetaminophen. Norco<sup>®</sup> is prescribed for moderate to moderately severe pain.

22           16. Diazepam, a benzodiazepine, is listed as a "Schedule IV" controlled substance,  
23 under Health and Safety Code section 11057(d).

24           17. Business and Professions Code section 4022 defines "dangerous drug" or  
25 "dangerous device" as "any drug or device unsafe for self-use, except veterinary drugs that are  
26 labeled as such, and includes the following:

27           (a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing  
28 without prescription,' 'Rx only,' or words of similar import.

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"(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."

18. Hydrocodone combined with acetaminophen is a dangerous drug under Business and Professions Code section 4022, since federal law prohibits Schedule III controlled substances from being dispensed without a prescription.

19. Diazepam is a dangerous drug under Business and Professions Code section 4022, since federal law prohibits Schedule IV controlled substances from being dispensed without a prescription.

**RELEVANT VEHICLE AND PENAL CODE PROVISIONS**

20. Vehicle Code section 23103 states:

"(a) Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

"(b) Any person who drives any vehicle in any offstreet parking facility, as defined in subdivision (c) of Section 12500, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

"(c) Persons convicted of the offense of reckless driving shall be punished by imprisonment in a county jail for not less than five days nor more than 90 days or by a fine of not less than one hundred forty-five dollars (\$145) nor more than one thousand dollars (\$1,000), or by both that fine and imprisonment, except as provided in Section 23104."

21. Vehicle Code section 23103.5(a) states:

"When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of Section 23103 in satisfaction of, or as a substitute for, an original charge of a violation of Section 23152, the prosecution shall state for the record a factual basis for the satisfaction or substitution, including whether or not there had been consumption of any alcoholic beverage or ingestion or administration of any drug, or both, by the defendant in connection with the offense. The statement shall set forth the facts that show whether or not there was a consumption of any



1                   a.       On or about May 3, 1999, while driving his automobile, Respondent  
2 was stopped by a California Highway Patrol officer for weaving from centerline to edgeline of the  
3 road. When questioned by the patrol officer, Respondent at first told the officer he had not had any  
4 drinks or taken any medications.

5                   b.       The patrol officer performed several Field Sobriety Tests ("FSTs") on  
6 Respondent, who had restricted pupils and had mumbled and slurred his words when he spoke.  
7 According to the patrol officer, Respondent failed to perform the FSTs as required. After performing  
8 the FSTs, the officer again asked Respondent whether he had taken any medications, which  
9 Respondent replied he had taken some Norco<sup>®</sup>. The patrol officer then arrested Respondent for  
10 violation of Vehicle Code section 23152(a) - driving under the influence of prescription drugs. The  
11 officer's investigation report indicates Respondent admitted to taking both Norco<sup>®</sup> and diazepam,  
12 which is a benzodiazepine.

13                  c.       While at the police station, Respondent consented to have his blood  
14 drawn for toxicology screening. The toxicology report indicated that Respondent had  
15 Benzodiazepines and Opiates in his blood system.

16                  d.       On or about May 26, 1999, Respondent appeared at the Salinas  
17 Municipal Court and entered a plea of guilty to a violation of Vehicle Code section 23103 (drug  
18 related). Upon Respondent's plea of guilty of this violation, the District Attorney dismissed the  
19 driving under the influence of prescription drugs charge (Vehicle Code section 23152(a)). The Court  
20 then sentenced Respondent to conditional probation for 3 years, required him to obey all laws, and  
21 fined him \$750.00.

22                  **25.**     Respondent is further subject to disciplinary action under Business and  
23 Professions Code section 4301(f) in that he pleaded guilty to spousal abuse, which additionally  
24 evidences Respondent's moral turpitude. The circumstances are as follows:

25                  a.       On or about May 21, 2001, the District Attorney of Monterey County  
26 filed a Complaint (*People v. Anthony Mark Ricigliano*, Case No. 0636501) against Respondent that  
27 alleged Respondent violated Penal Code section 243(e), when he willfully and unlawfully used force  
28 and violence upon his spouse on May 20, 2001.

1                   b.       On or about May 30, 2001, Respondent appeared in the Salinas  
2 Superior Court and pleaded guilty to the charge as stated in the Complaint. Upon Respondent's plea  
3 of guilty to the charge, the Court sentenced to Respondent to serve 2 days in jail (with credit for time  
4 served), 3 years of formal probation, 40 hours community service, 1 year of domestic violence  
5 counseling (one 2-hour meeting each week), and standard formal probation terms.

6   **SECOND CAUSE FOR DISCIPLINE**

7   (Unprofessional Conduct - Self Administration of Controlled Substances)

8                   26.       Respondent is subject to disciplinary action under Business and Professions  
9 Code section 4301(h) in that he drove his vehicle while under the influence of two controlled  
10 substances that contain warnings to users not to drive, use machinery, or do anything that requires  
11 mental alertness, since they may interfere with the user's ability to perform such functions. By  
12 having driven his automobile, despite the warnings that to do so may interfere with the driver's  
13 ability to drive, about which, as a pharmacist, Respondent knew or should have known, Respondent  
14 not only put himself at risk of serious injury, but also put the public at serious risk. The  
15 circumstances are discussed in detail above in Paragraph 24.

16   **THIRD CAUSE FOR DISCIPLINE**

17   (Unprofessional Conduct - Conviction of a Substantially Related Crime)

18                   27.       Respondent is subject to disciplinary action under Business and Professions  
19 Code sections 4301(l) and 490 in that Respondent pleaded guilty of a violation of Vehicle Code  
20 section 23103 - willful or wanton disregard for the safety of persons or property by driving after  
21 consumption/ingestion of a drug. The circumstances are discussed in detail above in Paragraph 24.

22   **PRAYER**

23                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
24 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

25                   A.       Revoking or suspending Registered Pharmacist License Number RPH 24818,  
26 issued to Anthony Mark Ricigliano;

27                   B.       Ordering Anthony Mark Ricigliano to pay the Board of Pharmacy the  
28 reasonable costs of the investigation and enforcement of this case, pursuant to Business and

1 Professions Code section 125.3;

2 C. Taking such other and further action as deemed necessary and proper.

3 DATED: 5/5, 2003.

4

*P. F. Harris*

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PATRICIA F. HARRIS

6

Executive Officer

7

Board of Pharmacy

Department of Consumer Affairs

State of California

Complainant

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