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7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:
 13 **RIVER CITY PHARMACY, INC.**
 d.b.a.: **OPTION CARE**
 14 Donald V. Ryan, D.D.S., Chairman of the Board
 Robert Scheblein, President
 15 5491 Carlson Drive
 Sacramento, California 95819
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 17 Original Pharmacy Permit No. PHY46115
 18 Respondent.

Case No. 2674

OAH No. N2003090390

**STIPULATED SETTLEMENT AND
 DISCIPLINARY ORDER**

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

PARTIES

1. Patricia F. Harris ("Complainant") is the Executive Officer of the Board of
 Pharmacy ("Board"). She brought this action solely in her official capacity and is represented in
 this matter by Bill Lockyer, Attorney General of the State of California, by Ronald L. Diedrich,
 Supervising Deputy Attorney General.
2. Respondent River City Pharmacy, Inc. ("Respondent") is represented in
 this proceeding by attorney David W. Tyra, whose address is Seyfarth Shaw, LLP, 400 Capitol

1 Mall, Sacramento, CA 95814.

2 3. On or about January 24, 2003, the Board issued Original Pharmacy Permit
3 Number PHY 46115 to Respondent, doing business as Option Care. Respondent's license was in
4 effect at all times relevant to the charges brought herein, and will expire on January 1, 2005,
5 unless renewed.

6 JURISDICTION

7 4. Accusation No. 2674 was filed before the Board and is currently pending
8 against Respondent. The Accusation and all other statutorily required documents were properly
9 served on Respondent on September 4, 2003. Respondent timely filed its Notice of Defense
10 contesting the Accusation. A copy of Accusation No. 2674 is attached as exhibit A and
11 incorporated herein by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, fully discussed with counsel, and
14 understands the charges and allegations in Accusation No. 2674. Respondent has also carefully
15 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

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

26 CULPABILITY

27 8. Respondent admits the truth of each and every legal and factual charge and
28 allegation in Accusation No. 2674.

1 Ryan, D.D.S., is precluded from exercising any control, of any nature whatsoever, over
2 Respondent River City Pharmacy, Inc. or Option Care. Failure to provide timely forms, fees, or
3 proof satisfactory to the Board of the required divestiture by Donald L. Ryan, D.D.S., and the
4 requirements precluding his exercising control over Respondent, shall constitute a violation of
5 probation, shall be a sufficient basis for the immediate suspension of Respondent's Original
6 Pharmacy Permit Number PHY 46115, and shall be a sufficient basis, in and of itself, to revoke
7 Respondent's Original Pharmacy Permit Number PHY 46115.

8 2. **Obey All Laws.** Respondent shall obey all state and federal laws and
9 regulations substantially related to or governing the practice of pharmacy.

10 Respondent shall report any of the following occurrences to the Board, in writing,
11 within 72 hours of such occurrence:

- 12 • an arrest or issuance of a criminal complaint for violation of any provision of the
13 Pharmacy Law, state and federal food and drug laws, or state and federal
14 controlled substances laws.
- 15 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
16 any criminal complaint, information or indictment.
- 17 • a conviction of any crime.
- 18 • discipline, citation, or other administrative action filed by any state and federal
19 agency which involves Respondent's license or which is related to the practice
20 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
21 or charging for any drug, device or controlled substance.

22 3. **Reporting to the Board.** Respondent shall report to the Board
23 quarterly. The report shall be made either in person or in writing, as directed by the Board.
24 Respondent shall state under penalty of perjury whether there has been compliance with all the
25 terms and conditions of probation. If the final probation report is not made as directed,
26 probation shall be extended automatically until such time as the final report is made and
27 accepted by the Board.

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

5 5. **Cooperation with Board Staff.** Respondent shall cooperate with the
6 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
7 compliance with the terms and conditions of their probation. Failure to comply shall be
8 considered a violation of probation.

9 6. **Notice to Employees.** Respondent shall notify all present and
10 prospective employees of the decision in case number 2674 and the terms, conditions and
11 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
12 this decision, and within 15 days of Respondent hiring any new employee, Respondent shall
13 cause the supervisor, pharmacist-in-charge and/or corporate officer to report to the Board in
14 writing acknowledging the employee has read the decision in case number 2674.

15 "Employee" within the meaning of this provision shall include any full-time,
16 part-time, temporary, or relief employee, whether the person is considered an employee or
17 independent contractor.

18 7. **Reimbursement of Board Costs.** Withing thirty (30) calendar days of
19 the effective date of the Board's decision adopting this Stipulated Settlement and Disciplinary
20 order, Respondent shall pay to the Board its costs of investigation and prosecution in the
21 amount of \$10,000.00.

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

24 8. **Probation Monitoring Costs.** Respondent shall pay the costs
25 associated with probation monitoring as determined by the Board each and every year of
26 probation. Such costs shall be payable to the Board at the end of each year of probation.
27 Failure to pay such costs shall be considered a violation of probation.

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1 9. **Status of License.** Respondent shall, at all times while on probation,
2 maintain an active current license with the Board, including any period during which
3 suspension or probation is tolled.

4 If Respondent's license expires or is canceled by operation of law or otherwise,
5 upon renewal or re-application, Respondent's license shall be subject to all terms and
6 conditions of this probation not previously satisfied.

7 10. **License Surrender while on Probation/Suspension.** Following the
8 effective date of the Board's decision adopting the Stipulated Settlement and Disciplinary
9 Order, should Respondent cease operation, or be otherwise unable to satisfy the terms and
10 conditions of probation, Respondent may tender its license to the Board for surrender. The
11 Board shall have the discretion whether to grant the request for surrender or take any other
12 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
13 license, Respondent will no longer be subject to the terms and conditions of probation.

14 Upon acceptance of the surrender, Respondent shall relinquish its license to the
15 Board within 10 days of notification by the Board that the surrender is accepted. Respondent
16 may not reapply for any license from the Board for three (3) years from the effective date of
17 the surrender. Respondent shall meet all requirements applicable to the license sought as of
18 the date the application for that license is submitted to the Board.

19 11. **Transfer of Interest.** The sale or transfer of any interest whatsoever
20 in River City Pharmacy, Inc., shall be subject to the prior approval of the Board, after the
21 filling of the required application and the payment of required fees. Failure to obtain such
22 prior approval shall render the transfer or sale void, and shall constitute a violation of
23 probation. Any person or entity that receives any interest whatsoever in River City Pharmacy,
24 Inc., shall be subject to this Stipulated Settlement and Disciplinary Order, regardless if the
25 permit number remains PHY 46115 or a new permit number is issued. Respondent shall
26 notify any such person or entity of this requirement prior to the sale or transfer. Failure to do
27 so, shall constitute a violation of probation.

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1 **12. Corporate Officers and Directors.** Respondent shall report in writing
2 to the Board any change in the officers, directors or persons who can exercise any control over
3 River City Pharmacy, Inc., within seven (7) days of such change. Failure to timely do so, shall
4 constitute a violation of probation.

5 **13. Violation of Probation.** If Respondent violates probation in any
6 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
7 probation and carry out the disciplinary order which was stayed. If a petition to revoke
8 probation or an accusation is filed against Respondent during probation, the Board shall have
9 continuing jurisdiction and the period of probation shall be extended, until the petition to
10 revoke probation or accusation is heard and decided.

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

16 **14. Completion of Probation.** Upon successful completion of probation,
17 Respondent's license will be fully restored.

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ACCEPTANCE

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I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, David W. Tyra. I understand the stipulation and the effect it will have on my Original Pharmacy Permit No. PHY46115. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

2-20-04
PLD *RA*

RIVER CITY PHARMACY, INC., Respondent
by: Donald V. Ryan, D.D.S., Chairman of the Board

DATED: 2-21-04

[Signature]

RIVER CITY PHARMACY, INC., Respondent
by: Robert Scheblein, President

I have read and fully discussed with Respondent River City Pharmacy, Inc. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 2-21-04

[Signature]

DAVID W. TYRA, Esq.
Attorney for Respondent

ENDORSEMENT

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

DATED: February 23, 2004

BILL LOCKYER, Attorney General
of the State of California

[Signature]

RONALD L. DIEDRICH
Supervising Deputy Attorney General
Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 2674

**River City Pharmacy, Inc.
d.b.a. Option Care**

Donald V. Ryan, D.D.S., Chairman of the Board
5491 Carlson Dr
Sacramento, CA 95819

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Original Pharmacy Permit No. PHY 46115

Respondent.

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DECISION AND ORDER

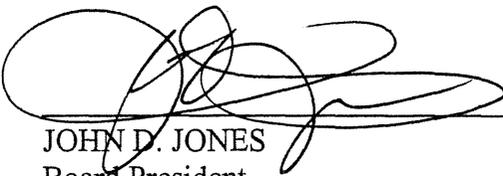
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This decision shall become effective on May 9, 2004.

It is so ORDERED on April 9, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By


JOHN D. JONES
Board President

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of the State of California
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7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:
13 **RIVER CITY PHARMACY, INC.**
dba, OPTION CARE
14 Donald V. Ryan, D.D.S., Chairman of the Board
Robert Scheblein, President
15 5491 Carlson Drive
Sacramento, California 95819
16
Original Pharmacy Permit No. PHY46115
17
Respondent.

Case No. 2674

ACCUSATION

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20 Complainant alleges:

21 PARTIES

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

25 2. On or about January 24, 2003, the Board issued Original Pharmacy Permit
26 Number PHY 46115 to River City Pharmacy, Inc., doing business as Option Care
27 ("Respondent"). Respondent's license was in effect at all times relevant to the charges brought
28 herein, and will expire on January 1, 2004, unless renewed.

JURISDICTION

3. The Accusation is brought before the Board under the authority of the following Business and Professions Code ("Code") sections:

a. Code section 4300, subdivision (a), provides that "[E]very license issued [by the Board] may be suspended or revoked [by the Board]."

b. Code section 4301 provides, in pertinent part, that "[T]he Board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake."

4. Code section 23.7 provides, in pertinent part, that "[U]nless otherwise expressly provided, 'license' means license, certificate, registration, or other means to engage in a business or profession regulated by this code . . . "

STATUTORY PROVISIONS

(Pharmacy Permit Issued by Mistake)

5. Code section 4301 provides, in pertinent part, that "[T]he Board shall take action against any holder of a license . . . whose license has been . . . issued by mistake."

6. Code section 4111, subdivision (a), provides:

(a) Except as otherwise provided in subdivision (b) or (d), the board shall not issue or renew any license to conduct a pharmacy to any of the following:

(1) A person or persons authorized to prescribe or write a prescription, as specified in Section 4040, in the State of California.

(2) A person or persons with whom a person or persons specified in paragraph (1) shares a community or other financial interest in the permit sought.

(3) Any corporation that is controlled by, or in which 10 percent or more of the stock is owned by a person or persons prohibited from pharmacy ownership by paragraph (1) or (2).

7. Code section 4040, subdivision (a)(2), provides that a dentist is authorized to prescribe or write a prescription.

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1 (Pharmacy Permit Procured by Fraud or Misrepresentation)

2 8. Code section 4301 provides, in pertinent part, that "[T]he Board shall take
3 action against any holder of a license . . . whose license has been procured by fraud or
4 misrepresentation . . ."

5 (Unprofessional Conduct)

6 9. Code section 4301 provides, in pertinent part, that:

7 The Board shall take action against any holder of a license who is
8 guilty of unprofessional conduct . . . Unprofessional conduct shall
include, but is not limited to, any of the following:

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

12 (g) Knowingly making or signing any certificate or other document
that falsely represents the existence or nonexistence of a state of
13 facts.

14 (p) Actions or conduct that would have warranted denial of a
license.

15 10. Code section 480 states, in pertinent part:

16 (a) A board may deny a license regulated by this code on the
17 grounds that the applicant has one of the following:

18 (2) Done any act involving dishonesty, fraud or deceit with the
19 intent to substantially benefit himself or another, or substantially
injure another;

20 (Cost Recovery)

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

25 CAUSE FOR REVOCATION

26 (Pharmacy Permit Issued by Mistake)

27 12. Respondent's pharmacy permit is subject to revocation pursuant to Code
28 section 4301, in that Respondent's pharmacy permit was issued by mistake. Respondent is

1 impermissibly owned and/or controlled by Donald Vincent Ryan, D.D.S. ("Ryan"), a person
2 disqualified from holding a pharmacy permit pursuant to Code section 4111, subdivision (a).

3 13. Ryan is Respondent's chairman of the board and/or co-president. Ryan is
4 also the lessor for the property Respondent's leases for its pharmacy operations at 5491 Carlson
5 Drive in Sacramento.

6 14. Respondent is wholly owned by River City Pharmacy Acquisitions, Inc.
7 Ryan is the chief executive officer and the only board member identified for River City
8 Pharmacy Acquisitions, Inc.

9 15. River City Pharmacy Acquisitions, Inc., is wholly owned by Donald V.
10 Ryan DDS Profit Sharing Plan. The holders of the beneficial interest in that plan are Ryan,
11 Carolyn Ryan, Carol Juarez, and Shami Ali. Ryan is also trustee of that plan.

12 16. In or about 1974 the Dental Board of California issued State Certificate
13 Number 24055 to Ryan. At all times relevant to the pharmacy permit application process and
14 thru the issuance of the pharmacy permit to Respondent, Ryan's license to practice dentistry was
15 in force and effect. A licensed dentist is someone authorized to issue a prescription, as specified
16 in Code section 4040.

17 FIRST CAUSE FOR DISCIPLINE

18 (Pharmacy Permit Procured by Fraud or Misrepresentation)

19 17. Respondent is subject to disciplinary action pursuant to Code section
20 4301, in that it procured its pharmacy permit by fraud or misrepresentation, in that:

21 18. On or about September 26, 2002, Respondent filed with the Board a
22 Community Pharmacy Permit Application. As part of that application, a Certification of
23 Personnel was required to be filed by Respondent for Ryan, as an owner, director, officer and/or
24 major shareholder of Respondent.

25 19. Among the questions asked in the Certification of Personnel is the
26 following, in pertinent part:

27 9. Have you ever been convicted of, or pled no contest to, a
28 violation of any law of a foreign country, the United States, any
state or local jurisdiction? You must include all misdemeanor and

1 felony convictions, regardless of the age of the conviction,
2 including those which have been set aside and/or dismissed under
3 Penal Code section 1000 or 1203.4.

3 20. Ryan, Respondent's chairman of the board and/or co-president, in
4 furtherance of Respondent's Community Pharmacy Permit Application, falsely, fraudulently or
5 deceitfully, under penalty of perjury, answered "NO" to question 9 of the Certification of
6 Personnel. In fact, on or about April 28, 1999, Ryan was convicted of violating Health and
7 Safety Code section 25163, subdivision (a) (unlawful transportation of hazardous waste), in the
8 case of *The People v. Donald Vincent Ryan* (Mun. Ct., Stockton Judicial Dist., San Joaquin
9 County, 1999, No. SM199330A.).

10 21. Ryan's fraud or misrepresentation aided in the obtaining of a pharmacy
11 permit by Respondent.

12 SECOND CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct - Dishonesty, Fraud or Deceit - Code § 4301, subd. (f))

14 22. Respondent is also subject to disciplinary action pursuant to Code section
15 4301, in that it engaged in unprofessional conduct, as defined in Code section 4301, subdivision
16 (f). Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or
17 corruption, whether those acts were committed in the course of relations as a licensee or
18 otherwise, and whether any of those acts is a felony or misdemeanor or not. Each of the
19 following acts, in and of itself, constitutes a sufficient basis to discipline Respondent's pharmacy
20 permit pursuant to Code section 4301, subdivision (f).

21 (Community Pharmacy Permit Application)

22 23. As more fully alleged in paragraphs 18 thru 21 above and incorporated
23 herein by reference, Respondent filed with the Board a required Certification of Personnel for
24 Ryan as part of its Community Pharmacy Permit Application. In response to question 9 of that
25 Certification of Personnel, Ryan, Respondent's chairman of the board and/or co-president, under
26 penalty of perjury, falsely, fraudulently, and/or deceitfully denied ever having been convicted of a
27 crime.

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(Medi-Cal Pharmacy Provider Application)

24. On or about March 3, 2003, Respondent filed with the California Department of Health Services a Medi-Cal Pharmacy Provider Application. As part of that application, Respondent filed a Medi-Cal Disclosure Statement, along with a mandatory Attachment A for Ryan, as a director, officer and/or person with an ownership or control interest in Respondent.

25. Among the questions asked in Attachment A are the following, in pertinent part:

11. Has your individual license, certificate, or other approval to provide health care, ever been suspend or revoked?

13. Has your individual license, certificate, or other approval to provide health care ever been disciplined by any licensing authority?

26. Ryan, Respondent's chairman of the board and/or co-president, in furtherance or Respondent's Medi-Cal Pharmacy Provider Application, falsely, fraudulently or deceitfully answered "NO" to question 11 and/or 13 of Attachment A. In fact, on or about May 10, 1997, in the case of *In the Matter of the Accusation Against: Donald Vincent Ryan, D.D.S.* (Dental Bd. of Cal., 1997, Case No. AGN 1995-30, O.A.H. No. N-9601127.), Ryan's dental license number 24055 (individual license, certificate, or other approval to provide health care) was revoked. The revocation was stayed and Ryan was placed on five (5) years probation.

(River City Pharmacy, Inc., et al. v. Diana M. Bonta, et al.)

27. On or about August 8, 2003, Ryan, personally and as Respondent's chairman of the board of directors, filed his declaration in support of an ex parte application for a temporary restraining order in the case of *River City Pharmacy, Inc., dba Option Care Sacramento and Donald Ryan v. Diana M. Bonta, Director of California Department of Health Services, Don Fields, Chief of Provider Enrollment Branch, and California Department of Health Services* (Super. Ct. Sacramento County, 2003, Case No.03AS04403.).

28. In his declaration, Ryan, Respondent's chairman of the board and/or co-president, under penalty of perjury, falsely, fraudulently or deceitfully swore that Respondent has

1 been in lawful operation for over 20 years. In fact, Respondent was first licensed by the Board
2 and issued license number 43873 in August 1999, not in 1983, or even in 1996, when Ryan states
3 that Respondent was acquired by Donald V. Ryan DDS Profit Sharing Plan's predecessor,
4 Hometech Medical Services, Inc., of which Ryan owned 25%.

5 THIRD CAUSE FOR DISCIPLINE

6 (Unprofessional Conduct - Making False Representations - Code § 4301, subd. (g))

7 29. Respondent is also subject to disciplinary action pursuant to Code section
8 4301, in that it engaged in unprofessional conduct, as defined in Code section 4301, subdivision
9 (g). Respondent knowingly made or signed a certificate or other document that falsely represents
10 the existence or nonexistence of a state of facts. Each of the following misrepresentations, in and
11 of itself, constitutes a sufficient basis to discipline Respondent's pharmacy permit pursuant to
12 Code section 4301, subdivision (g).

13 (Community Pharmacy Permit Application)

14 30. As more fully alleged in paragraphs 18 thru 21 and 23 above and
15 incorporated herein by reference, Respondent had made and filed with the Board a required
16 Certification of Personnel for Ryan as part of its Community Pharmacy Permit Application. In
17 response to question 9 in that at Certification of Personnel, Ryan, Respondent's chairman of the
18 board and/or co-president, under penalty of perjury, falsely, fraudulently, and/or deceitfully
19 denied ever having been convicted of a crime. At the time the denial was made, Ryan knew that
20 he had in fact been convicted of a crime in the case of *The People v. Donald Vincent Ryan* (Mun.
21 Ct., Stockton Judicial Dist., San Joaquin County, 1999, No. SM199330A.).

22 (Medi-Cal Pharmacy Provider Application)

23 31. As more fully alleged in paragraphs 24 thru 26 above and incorporated
24 here in by reference, Respondent had made and filed with the California Department of Health
25 Services a required Attachment A to the Medi-Cal Disclosure Statement as part of its Medi-Cal
26 Pharmacy Provider Application. In response to questions 11 and/or 13, Ryan, Respondent's
27 chairman of the board and/or co-president, falsely, fraudulently, and/or deceitfully denied ever
28 having his dental license revoked and/or disciplined. At the time the denial was made, Ryan

1 knew that his dental license had been revoked, with the revocation stayed, and that discipline had
2 been imposed in the case of *In the Matter of the Accusation Against: Donald Vincent Ryan,*
3 *D.D.S.* (Dental Bd. of Cal., 1997, Case No. AGN 1995-30, O.A.H. No. N-9601 127.).

4 (River City Pharmacy, Inc., et al. v. Diana M. Bonta, et al.)

5 32. As more fully alleged in paragraphs 27 and 28 above and incorporated
6 herein by reference, Ryan, personally and as Respondent's chairman of the board of directors,
7 filed a declaration in support of an ex parte application for a temporary restraining order in the
8 case of *River City Pharmacy, Inc., dba Option Care Sacramento and Donald Ryan v. Diana M.*
9 *Bonta, Director of California Department of Health Services, Don Fields, Chief of Provider*
10 *Enrollment Branch, and California Department of Health Services* (Super. Ct. Sacramento
11 County, 2003, Case No.03AS04403.). In that declaration, Ryan, under penalty of perjury, falsely,
12 fraudulently or deceitfully swore that Respondent has been in lawful operation for over 20 years.
13 At the time that declaration was made, Ryan knew that the Respondent was first licensed by the
14 Board and issued license number 43873 in August 1999, not in 1983, or even in 1996, when
15 Ryan states that Respondent was acquired by Donald V. Ryan DDS Profit Sharing Plan's
16 predecessor, Hometech Medical Services, Inc., of which Ryan owned 25%.

17 FOURTH CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct - Dishonest Conduct Warranting Denial - Code § 4301, subd. (p))

19 33. Respondent is also subject to disciplinary action pursuant to Code section
20 4301, in that it engaged in unprofessional conduct, as defined in Code section 4301, subdivision
21 (p). Respondent engaged in conduct which would have warranted the denial of a pharmacy
22 permit pursuant to Code section 480, subdivision (a)(2), in that Respondent committed acts
23 involving dishonesty, fraud or deceit with the intent to substantially benefit itself or another.
24 Each of the following acts, in and of itself, constitutes a sufficient basis to discipline
25 Respondent's pharmacy permit pursuant to Code section 4301, subdivision (p).

26 (Community Pharmacy Permit Application)

27 34. As more fully alleged in paragraphs 18 thru 21, 23 and 30 above and
28 incorporated herein by reference, Respondent had made and filed with the Board a required

1 Certification of Personnel for Ryan as part of its Community Pharmacy Permit Application. In
2 response to question 9 in that at Certification of Personnel, Ryan, Respondent's chairman of the
3 board and/or co-president, under penalty of perjury, falsely, fraudulently, and/or deceitfully
4 denied ever having been convicted of a crime. The dishonest denial was made with the intent to
5 enhance Respondent's ability to obtain a pharmacy permit.

6 (Medi-Cal Pharmacy Provider Application)

7 35. As more fully alleged in paragraphs 24 thru 26 and 31 above and
8 incorporated here in by reference, Respondent had made and filed with the California
9 Department of Health Services a required Attachment A to the Medi-Cal Disclosure Statement as
10 part of its Medi-Cal Pharmacy Provider Application. In response to questions 11 and/or 13,
11 Ryan, Respondent's chairman of the board and/or co-president, falsely, fraudulently, and/or
12 deceitfully denied ever having his dental license revoked and/or disciplined. At the time the
13 denial was made, Ryan knew that his dental license had been revoked, with the revocation
14 stayed, and that discipline had been imposed in the case of *In the Matter of the Accusation*
15 *Against: Donald Vincent Ryan, D.D.S.* (Dental Bd. of Cal., 1997, Case No. AGN 1995-30,
16 O.A.H. No. N-9601127.). The dishonest denial was made with the intent to enhance
17 Respondent's ability to obtain a Medi-Cal provider number.

18 (*River City Pharmacy, Inc., et al. v. Diana M. Bonta, et al.*)

19 36. As more fully alleged in paragraphs 27, 28 and 32 above and incorporated
20 herein by reference, Ryan, personally and as Respondent's chairman of the board of directors,
21 filed a declaration in support of an ex parte application for a temporary restraining order in the
22 case of *River City Pharmacy, Inc., dba Option Care Sacramento and Donald Ryan v. Diana M.*
23 *Bonta, Director of California Department of Health Services, Don Fields, Chief of Provider*
24 *Enrollment Branch, and California Department of Health Services* (Super. Ct. Sacramento
25 County, 2003, Case No.03AS04403.). In that declaration, Ryan, under penalty of perjury, falsely,
26 fraudulently or deceitfully swore that Respondent has been in lawful operation for over 20 years.
27 The dishonest declaration was made with the intent to enhance Respondent's ability to obtain a
28 temporary restraining order preventing the California Department of Health Services from

1 deactivating or temporarily suspending Respondent's Medi-Cal provider number.

2 PRAYER

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

5 1. Revoking or suspending Original Pharmacy Permit No. PHY46115, issued
6 to River City Pharmacy, Inc., d.b.a.: Option Care;

7 2. Ordering River City Pharmacy, Inc. to pay the Board of Pharmacy the
8 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
9 Professions Code section 125.3; and,

10 3. Taking such other and further action as deemed necessary and proper.

11
12 DATED: 9/2/03

13 
14 _____
15 PATRICIA F. HARRIS
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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