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7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 **DAVID LEE HUYNH**
6251 Lena
Woodland Hills, CA 91367
14 Pharmacist License No. 52876

15 Respondent.

Case No. 2781

OAH No. L-2005070318

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

19 PARTIES

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

24 2. Respondent DAVID LEE HUYNH (Respondent) is represented in this
25 proceeding by attorney Herbert Weinberg, whose address is Van Etten Suzumoto & Becket LLP,
26 1620 26th Street, Suite 6000 North, Santa Monica, CA 90404.

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1 pharmacy nor do any act involving drug selection, selection of stock, manufacturing,
2 compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or
3 be a consultant to any licensee of the Board, or have access to or control the ordering,
4 manufacturing or dispensing of dangerous drugs or controlled substances.

5 Respondent shall not engage in any activity that requires the professional
6 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of
7 pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exempted for
8 any entity licensed by the Board.

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

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

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

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

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 his probation. Failure to comply shall be
8 considered a violation of probation.

9 6. **Continuing Education.** Respondent shall provide evidence of efforts
10 to maintain skill and knowledge as a pharmacist as directed by the Board.

11 7. **Notice to Employers.** Respondent shall notify all present and
12 prospective employers of the decision in Accusation Case No.2781 and the terms, conditions
13 and restrictions imposed on Respondent by the decision. Within 30 days of the effective date
14 of this decision, and within 15 days of Respondent undertaking new employment, Respondent
15 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
16 writing acknowledging the employer has read the decision in Accusation Case No. 2781.

17 If Respondent works for or is employed by or through a pharmacy employment
18 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
19 every pharmacy of the and terms conditions of the decision in Accusation Case No. 2781 in
20 advance of the Respondent commencing work at each pharmacy.

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

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

1 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board
2 its costs of investigation and prosecution in the amount of \$5,000.00. Respondent shall make
3 said payments as follows: Quarterly, in equal amounts, over the period of his probation.

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

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

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

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

16 12. **License Surrender while on Probation/Suspension.** Following the
17 effective date of this decision, should Respondent cease practice due to retirement or health, or
18 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
19 his license to the Board for surrender. The Board shall have the discretion whether to grant
20 the request for surrender or take any other action it deems appropriate and reasonable. Upon
21 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
22 terms and conditions of probation.

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

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

6 14. **Tolling of Probation.** Should Respondent, regardless of residency, for
7 any reason cease practicing pharmacy for a minimum of eighty (80) hours per calendar month
8 in California, Respondent must notify the Board in writing within 10 days of cessation of the
9 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
10 shall not apply to the reduction of the probation period. It is a violation of probation for
11 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
12 period exceeding three years.

13 “Cessation of practice” means any period of time exceeding 30 days in which
14 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of
15 the Business and Professions Code.

16 Respondent shall work at least 40 hours in each calendar month as a pharmacist
17 and at least an average of 80 hours per month in any six consecutive months. Failure to do so
18 will be a violation of probation. If Respondent has not complied with this condition during
19 the probationary term, and Respondent has presented sufficient documentation of his good
20 faith efforts to comply with this condition, and if no other conditions have been violated, the
21 Board, in its discretion, may grant an extension of Respondent’s probation period up to one
22 year without further hearing in order to comply with this condition.

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

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

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

8 17. **Rehabilitation Program - Pharmacists Recovery Program (PRP).**

9 Within 30 days of the effective date of this decision, Respondent shall contact
10 the Pharmacists Recovery Program for evaluation and shall successfully participate in and
11 complete the treatment contract and any subsequent addendums as recommended and
12 provided by the PRP and as approved by the Board. The costs for PRP participation shall be
13 borne by the Respondent.

14 If Respondent is currently enrolled in the PRP, said participation is now
15 mandatory and is no longer considered a self-referral under Business and Professions Code
16 section 4363, as of the effective date of this decision. Respondent shall successfully
17 participate in and complete his current contract and any subsequent addendums with the PRP.
18 Probation shall be automatically extended until Respondent successfully completes his
19 treatment contract. Any person terminated from the program shall be automatically suspended
20 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified
21 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate
22 probation for any violation of this term.

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

1 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as:
 2 directed shall constitute a violation of probation. Any confirmed positive drug test shall result:
 3 in the immediate suspension of practice by Respondent. Respondent may not resume the:
 4 practice of pharmacy until notified by the Board in writing.

5 19. **Abstain from Drugs and Alcohol Use.** Respondent shall completely
 6 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
 7 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
 8 practitioner as part of a documented medical treatment. Upon request of the Board,
 9 Respondent shall provide documentation from the licensed practitioner that the prescription
 10 was legitimately issued and is a necessary part of the treatment of the Respondent.

11 20. **No Ownership of Premises.** Respondent shall not own, have any legal
 12 or beneficial interest in, or serve as a manager, administrator, member, officer, director,
 13 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
 14 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any
 15 entity licensed by the Board within 90 days following the effective date of this decision and
 16 shall immediately thereafter provide written proof thereof to the Board.

17
 18 **ACCEPTANCE**

19 I have carefully read the above Stipulated Settlement and Disciplinary Order
 20 and have fully discussed it with my attorney, Herbert Weinberg, Esq. I understand the
 21 stipulation and the effect it will have on my pharmacist license. I enter into this Stipulated
 22 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
 23 bound by the Decision and Order of the Board.

24 DATED: 12/22/05

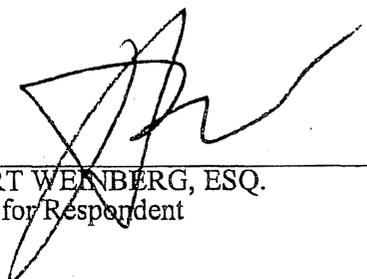
25
 26 
 27 DAVID LEE HUYNH
 Respondent

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I have read and fully discussed with Respondent DAVID LEE HUYNH the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/23/05



HERBERT WEINBERG, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: 11-27-05

BILL LOCKYER, Attorney General
of the State of California



BARRY G. THORPE
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2004601082
60118245.wpd

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

In the Matter of the Accusation Against:

DAVID LEE HUYNH
6251 Lena
Woodland Hills, CA 91367

Pharmacist License No. RPH-52876

Respondent.

Case No. 2781

OAH No. L-2005070318

DECISION AND ORDER

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

This Decision shall become effective on April 5, 2006.

It is so ORDERED March 6, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A
Accusation No. 2781

1 BILL LOCKYER, Attorney General
of the State of California
2 DESIREE PHILLIPS, State Bar No. 157464
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2578
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 **DAVID LEE HUYNH**
6251 Lena
13 Woodland Hills, CA 91367

14 Pharmacist License No. RPH-52876

15 Respondent.

Case No. 2781

OAH No. L-2004080387

A C C U S A T I O N

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about September 5, 2001, the Board of Pharmacy (Board) issued
23 Pharmacist License No. RPH-52876 to David Lee Huynh (Respondent). The pharmacist license
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 October 31, 2006, unless renewed.

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JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the
3 following laws. All section references are to the Business and Professions Code (Code) unless
4 otherwise indicated.

5 4. Section 118, subdivision (b), of the Code provides that the suspension,
6 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
7 proceed with a disciplinary action during the period within which the license may be renewed,
8 restored, reissued or reinstated.

9 5. Section 490 of the Code states:

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

19 6. Section 4022 of the Code states:

20 "Dangerous drug' or 'dangerous device' means any drug or device unsafe for
21 self-use, except veterinary drugs that are labeled as such, and includes the following:

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

24 "(b) Any device that bears the statement: "Caution: federal law restricts this
25 device to sale by or on the order of a _____," "Rx only," or words of similar import, the
26 blank to be filled in with the designation of the practitioner licensed to use or order use of the
27 device.

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

3 7. Section 4059, subdivision (a), of the Code states:

4 "A person may not furnish any dangerous drug, except upon the prescription of a
5 physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any
6 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or
7 veterinarian."

8 8. Section 4060 of the Code states, in pertinent part:

9 "No person shall possess any controlled substance, except that furnished to a
10 person upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian . . .
11 This section shall not apply to the possession of any controlled substance by a manufacturer,
12 wholesaler, pharmacy, physician, podiatrist, dentist, optometrist, veterinarian, certified nurse-
13 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled
14 with the name and address of the supplier or producer. . . ."

15 9. Section 4300 of the Code states, in pertinent part:

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

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

20 "(1) Suspending judgment.

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

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

23 "(4) Revoking his or her license.

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

26 . . .

27 "(e) The proceedings under this article shall be conducted in accordance with
28 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code,

1 and the board shall have all the powers granted therein. The action shall be final, except that the
2 propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the
3 Code of Civil Procedure."

4 10. Section 4301 of the Code states, in pertinent part:

5 "The board shall take action against any holder of a license who is guilty of
6 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
7 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
8 following:

9 ...

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

15 ...

16 "(j) The violation of any of the statutes of this state or of the United States
17 regulating controlled substances and dangerous drugs.

18 ...

19 "(l) The conviction of a crime substantially related to the qualifications, functions,
20 and duties of a licensee under this chapter. . . .

21 ...

22 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
24 applicable federal and state laws and regulations governing pharmacy, including regulations
25 established by the board.

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

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1 11. Section 4311, subdivision (c), of the Code states:

2 "In addition to any suspension under subdivision (a), the board shall also suspend
3 any license issued by the board, or the holder thereof, if the board determines that the felony
4 conviction of the holder of the license is substantially related to the qualifications, functions, or
5 duties of the licensee."

6 12. Section 4369, subdivision (c), of the Code states:

7 "Participation in a program under this article shall not be a defense to any
8 disciplinary action that may be taken by the board. Further, no provision of this article shall
9 preclude the board from commencing disciplinary action against a licensee who is terminated
10 from a program under this article."

11 13. California Code of Regulations, title 16, section 1770, states:

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

18 14. Health & Safety Code section 11170 states that, "[n]o person shall
19 prescribe, administer, or furnish a controlled substance for himself."

20 15. Health and Safety Code section 11350, subdivision (a), states:

21 "Except as otherwise provided in this division, every person who possesses. . . (2)
22 any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
23 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in
24 this state, shall be punished by imprisonment in the state prison."

25 16. Section 125.3, subdivision (a), of the Code states, in pertinent part:

26 "Except as otherwise provided by law, in any order issued in resolution of a
27 disciplinary proceeding before any board within the department . . . the board may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations

1 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case."

3 17. **DANGEROUS DRUGS / CONTROLLED SUBSTANCES**

4 a. "Ambien," a brand name for zolpidem tartrate, a nonbarbiturate hypnotic,
5 is a Schedule IV controlled substance as designated by Health and Safety Code section
6 11057(d)(32), and is categorized as a dangerous drug pursuant to Business and Professions Code
7 section 4022.

8 b. "Norco," a brand name for hydrocodone bitartrate with acetaminophen, is
9 a Schedule III controlled substance pursuant to Health and Safety Code Section 11056,
10 subdivision (e)(4), and is categorized as a dangerous drug pursuant to Business and Professions
11 Code section 4022.

12 c. "Soma," a brand name for carisoprodol, is categorized as a dangerous drug
13 pursuant to section 4022 of the Code.

14 d. "Vicodin" or "Vicodin ES," a brand name for hydrocodone bitartrate with
15 acetaminophen, is a Schedule III controlled substance pursuant to Health and Safety Code
16 Section 11056, subdivision (e)(4), and is categorized as a dangerous drug pursuant to Business
17 and Professions Code section 4022.

18 **FIRST CAUSE FOR DISCIPLINE**

19 *(Conviction of Substantially Related Crimes)*

20 18. Respondent has subjected his license to discipline pursuant to sections
21 4300, 4301(l), 4311(c), and 490 of the Code, in conjunction with California Code of Regulations,
22 title 16, section 1770, on the grounds of unprofessional conduct, in that, Respondent was
23 convicted of crimes substantially related to the qualifications, functions or duties of a pharmacist,
24 as follows:

25 a. On or about March 28, 2003, Respondent was convicted, on a plea of nolo
26 contendere, of one count of violating Vehicle Code section 23152(a) (driving under the influence
27 of alcohol or drugs), a misdemeanor, in the Los Angeles Municipal Court, Van Nuys Judicial
28 District, Case No. 3VN00434, entitled *People v. David Huynh*. The circumstances surrounding

1 the conviction are that on or about January 21, 2003, Respondent was arrested by the West Los
2 Angeles Police Department after he rear-ended another vehicle. The arresting officers noted that
3 Respondent's speech was slow and deliberate, he had poor balance, and was unable to perform
4 field sobriety tests as demonstrated. Respondent's vehicle was searched by the West Los
5 Angeles Police Department officers, and a clear plastic baggie containing numerous tablets was
6 discovered. Respondent admitted to one of the arresting officers that the tablets were his, and
7 that they were Vicodin, Soma and Ambien.

8 b. On or about June 6, 2003, Respondent was convicted on his plea of guilty
9 of one count of violating Health and Safety Code section 11350(a) (possession of narcotic
10 controlled substance, to wit: opiate (hydrocodone)), a felony, in the Los Angeles Municipal
11 Court, Beverly Hills Judicial District, Case No. SA048734, entitled *People v. David Huynh*.
12 Entry of judgment was deferred for 24 months. The circumstances surrounding the conviction
13 are that on or about March 9, 2003, Respondent was arrested by the California Highway Patrol
14 (CHP) after he rear-ended a vehicle. CHP officers noted that Respondent's gait and balance were
15 unsteady, his speech was slurred, and he seemed disoriented. Respondent was unable to perform
16 field sobriety tests as demonstrated. Subsequently, Respondent was searched and 3 pills were
17 found in his left rear pants pocket. Two of the pills were identified as Soma, and the other pill
18 was identified as Vicodin. Respondent submitted a urine sample, which tested positive for
19 opiates.

20 c. On or about October 24, 2003, Respondent was convicted on his plea of
21 nolo contendere of one count of violating Vehicle Code section 23152(a) (driving under the
22 influence of alcohol/drugs), a misdemeanor, in the Los Angeles Municipal Court, Van Nuys
23 Judicial District, Case No. 3VN01574, entitled *People v. David Huynh*. The circumstances
24 surrounding the conviction are that on or about April 1, 2003, Respondent was driving a motor
25 vehicle while under the influence of an alcoholic beverage or a drug.

26 d. On or about October 24, 2003, Respondent was convicted on his plea of
27 nolo contendere of one count of violating Vehicle Code section 23152(a) (driving under the
28 influence of alcohol/drugs), a misdemeanor, in the Los Angeles Municipal Court, Van Nuys

1 Judicial District, Case No. 3VN02155, entitled *People v. David Huynh*. The circumstances
2 surrounding the conviction are that on or about May 2, 2003, Respondent was arrested by
3 California Highway Patrol officers following a solo roll-over collision. Approximately 30
4 prescription pills (8 Vicodin, 2 Norco, 7 Ambien, and 13 Soma) were found loose throughout
5 Respondent's vehicle by a CHP officer. Respondent admitted to one of the arresting officers that
6 he had approximately 47 pills (20 Vicodin, 15 Soma, 10 Ambien, and 2 Norco) loose in the
7 glove box of his vehicle. Respondent was able to provide a prescription for the Vicodin ES pills,
8 only. Respondent admitted to buying the Norco pills in Mexico.

9 **SECOND CAUSE FOR DISCIPLINE**

10 *(Violation of a Statute Regulating Controlled Substances/Dangerous Drugs)*

11 19. Respondent has subjected his license to discipline pursuant to sections
12 4300 and 4301(j) of the Code, on the grounds of unprofessional conduct, in that Respondent
13 violated Health and Safety Code section 11350(a), a statute regulating controlled substances and
14 dangerous drugs, as described above in paragraph 18(b).

15 **THIRD CAUSE FOR DISCIPLINE**

16 *(Possession of Dangerous Drugs/Controlled Substances Without a Prescription)*

17 20. Respondent is subject to disciplinary action under sections 4300, and
18 4301(j) of the Code, on the grounds of unprofessional conduct for violating section 4060 of the
19 Code, in that Respondent possessed dangerous drugs/controlled substances without a prescription
20 as more fully set forth above in paragraph 18.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 *(Furnish, Administer Controlled Substances to Himself)*

23 21. Respondent has subjected his license to discipline pursuant to sections
24 4300, 4301(h), and 4301(j) of the Code, in conjunction with Health and Safety Code section
25 11170, in that Respondent furnished and administered controlled substances to himself, as
26 described above in paragraph 18.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 *(Furnish Dangerous Drugs to Himself)*

3 22. Respondent is subject to disciplinary action under sections 4300 and 4059
4 of the Code, on the grounds of unprofessional conduct, in that Respondent furnished dangerous
5 drugs to himself, without a prescription, as set forth in paragraph 18.

6 **SIXTH CAUSE FOR DISCIPLINE**

7 *(Use of Drugs in Dangerous/Injurious Manner)*

8 23. Respondent is subject to disciplinary action under sections 4300 and
9 4301(h) of the Code, on the grounds of unprofessional conduct, in that Respondent administered
10 to himself dangerous drugs to an extent or in a manner dangerous or injurious to himself, to any
11 person, or to the public, as more fully set forth above in paragraph 18.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 *(Actions Warranting Denial of License)*

14 24. Respondent has subjected his license to discipline pursuant to sections
15 4300 and 4301(p) of the Code, on the grounds of unprofessional conduct, in that he committed
16 acts which would warrant denial of a license as described above in paragraphs 18 - 23.

17 **EIGHTH CAUSE FOR DISCIPLINE**

18 *(Violation of the Pharmacy Law)*

19 25. Respondent has subjected his license to discipline pursuant to sections
20 4300 and 4301(o) of the Code, for unprofessional conduct, in that Respondent violated
21 pharmacy laws when he committed acts as described above in paragraphs 18 - 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 1. Revoking or suspending Pharmacist License No. RPH-52876, issued to
26 David Lee Huynh;
- 27 2. Ordering David Lee Huynh to pay the Board of Pharmacy the reasonable
28 costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and

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

DATED: 2/22/05

P. F. Harris
PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant