BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ALFRED J. PINARD, III 525 Pilgrim Drive Capitola, CA 95010 Registered Nurse License No. 555398 Respondent	Case No. 2006-20 OAH No.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on August 17, 2006.

IT IS SO ORDERED July 17, 2006.

LaFrancine W Tate

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ALFRED J. PINARD, III 525 Pilgrim Drive Capitola, CA 95010 Registered Nurse License No. 555398 Respondent.	Case No. 2006-20 OAH No. **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and responsibility of the Board of Registered Nursing, Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order to be submitted to the Board for approval and adoption as its final disposition of the Accusation.

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing. 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 Joshua A. Room, Deputy Attorney General.

2. Respondent Alfred J. Pinard, III (Respondent) is represented in this proceeding by attorney Rebecca F. Cady, whose address is Grace Hollis Lowe Hanson & Schaeffer LLP, 3555 Fifth Avenue, Suite 100, San Diego, CA 92103.

3. On or about June 1, 1999, the Board of Registered Nursing issued Registered Nurse License No. 555398 to Alfred J. Pinard, III (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2006-20 and will expire on August 31, 2006, unless renewed.

JURISDICTION

4. Accusation No. 2006-20 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 24, 2005. Respondent timely filed a Notice of Defense contesting the Accusation. A copy of Accusation No. 2006-20 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2006-20. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2006-20.

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

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without any notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse No. 555398 issued to Respondent Alfred J. Pinard, III (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within forty-five (45) days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court order, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than fifteen (15) days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension. Upon successful completion of probation, Respondent's license shall be fully restored.

3. **Report in Person.** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or designated representatives.

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4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when he resides outside of California. Respondent must provide written notice to the Board within fifteen (15) days of any change of residency or practice outside the state, and within thirty (30) days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

5. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of twenty-four (24) hours per week for six (6) consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of twenty-four (24) hours per week for six (6) consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one (1) year without further hearing in order to comply with this condition. During the one (1) year extension, all original conditions of probation shall apply.

7. **Employment Approval and Reporting Requirements.** Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this Decision to his employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two (72) hours after he obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. **Supervision.** Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education/training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

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(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

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If Respondent is working or intends to work in excess of forty (40) hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six (6) months prior to the end of his probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of $6,000.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three (3) months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one (1) year without further hearing in order to comply with this condition. During the one (1) year extension, all original conditions of probation will apply.

12. **Violation of Probation.** If Respondent violates any condition of his probation, the Board, after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed revocation of Respondent's license. If during the period of probation, an accusation or petition to revoke probation is filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

13. **License Surrender.** During Respondent's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

(1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or

(2) One year for a license surrendered for a mental or physical illness.

14. **Mental Health Exam/Substance Abuse Assessment.** Respondent shall, within forty-five (45) days of the effective date of this decision, under a mental health evaluation including psychological testing as appropriate to determine his capability to perform the duties of a registered nurse. The examination must be performed by a licensed psychiatrist, psychologist or other mental health practitioner, approved by the Board, who has experience in the diagnosis and treatment of chemical dependency and alcoholism. The examiner must submit a narrative report of the examination. All costs are the responsibility of the Respondent.

If Respondent is determined to be unable to practice safely as a registered nurse, the practitioner making this determination shall immediately notify both the Probation Program and Respondent of this determination by phone and Respondent shall immediately cease practice and not resume practice until notified in writing by the Probation Monitor that he may engage in the practice of registered nursing. During such suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Probation Monitor has notified Respondent that a mental health determination permits Respondent to resume practice.

If the examiner discovers that Respondent is or has been dependent upon drugs or alcohol or has had problems with drugs or alcohol (i.e., drug dependence in remission or alcohol dependence in remission), then Respondent must further comply with the following additional terms and conditions of probation.

(A) **Participate in Treatment/Rehabilitation Program for Chemical Dependence**

Respondent, at his expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six (6) months. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within a reasonable time approved by the Board, shall be enrolled in a program. If a program is not successfully completed within a reasonable time approved by the Board, the Board shall consider Respondent in violation of probation.

Based on Probation Program recommendation, each week Respondent shall be required to attend at least one, but no more that five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program, a licensed mental health examiner and/or other ongoing recovery groups.

(B) **Abstain From Use of Psychotropic (Mood-Altering) Drugs**

Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood-altering) drugs, including alcohol, except when the same are ordered by a health care professional legally

authorized to do so and are part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing physician or dentist, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

(C) **Submit to Tests and Samples**

Respondent, at his expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The Respondent is responsible for keeping the Board informed of Respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when he is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the Respondent shall be considered in violation of probation.

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In addition, Respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board my suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation.

(D) **Therapy or Counseling Program**

Respondent, at his expense, shall participate in an on-going counseling program until such time as the Board releases him from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Rebecca F. Cady. I understand the stipulation and the effect it will have on my Registered Nurse License. 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 Registered Nursing.

DATED: 3/29/06.

ALFRED J. PINARD, III
Respondent

I have read and fully discussed with Respondent Alfred J. Pinard, III the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/29/06.

REBECCA F. CADY
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for review by the Board of Registered Nursing, Department of Consumer Affairs.

DATED: 5/3/06.

BILL LOCKYER, Attorney General
of the State of California

JOSHUA A. ROOM
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SF2005200311
40080825.wpd

Exhibit A

Accusation No. 2006-20

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ALFRED J. PINARD, III 525 Pilgrim Drive Capitola, CA 95010 Registered Nurse License No. 555398 Respondent.	Case No. 2006-20 OAH No. **ACCUSATION**

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about June 1, 1999, the Board of Registered Nursing issued Registered Nurse License No. 555398 to Alfred J. Pinard, III (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2006, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

6. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

. . .

7. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

8. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

9. Section 2762 of the Code states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a [registered nurse to]:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife, a nurse practitioner, or a physician assistant.

11. Health and Safety Code section 11350, in pertinent part, makes it unlawful for a person to possess any controlled substance specified in section 11055(b), or any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon a written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state.

12. Health and Safety Code section 11377, in pertinent part, makes it unlawful for any person to possess any controlled substance classified in Schedule III, IV, or V which is not a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state.

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

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

14. Section 4021 of the Code states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

15. Section 4022 of the Code states, in pertinent part:

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

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

. . .

"(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."

16. **Morphine** is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M) and a dangerous drug as designated by section 4022 of the Code. It is a narcotic analgesic used for relief of moderate to severe pain.

17. **Endocet®** is the generic equivalent to **Percocet®**, and appears in pill form with "Endo 602" stamped on the tablet. It is a compound of 325 mg acetaminophen and 5 mg **oxycodone**, a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(N) and a dangerous drug as designated by Business and Professions Code section 4022. It is a narcotic analgesic used for relief of moderate to severe pain.

18. **Ketamine** is a Schedule III controlled substance as designated by Health and Safety Code section 11056(g) and a dangerous drug as designated by section 4022 of the Code. It is a non-barbiturate rapid-acting dissociative anesthetic often used as a "club drug."

19. **Versed®** (midazolam) is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(21) and a dangerous drug as designated by section 4022 of the Code. It is a benzodiazepene/depressant used commonly as a hypnotic or sedative.

20. **Inapsine®** (droperidol) is a dangerous drug as designated by section 4022 of the Code. It is a neuroleptic agent used commonly as an antiemetic and/or antipsychotic.

FACTUAL BACKGROUND

21. On or about July 14, 2003, a search conducted at Respondent's residence pursuant to a search warrant by officers of the Office of the Sheriff-Coroner for the County of Santa Cruz discovered the following controlled substances or dangerous drugs:

a. one bottle of **morphine**, a controlled substance / dangerous drug;

b. one tablet of **endocet**, a controlled substance / dangerous drug;

c. one bottle of **ketamine**, a controlled substance / dangerous drug;

d. one bottle of **versed**, a controlled substance / dangerous drug; and

e. two ampules of **inapsine**, a dangerous drug.

22. On or about July 14, 2003, Respondent's wife stated to the officers that the controlled substances and dangerous drugs discovered in Respondent's home had been brought home by Respondent from his place(s) of work as a nurse.

23. On or about December 22, 2003, in a written statement transmitted to the Division of Investigation investigator handling this matter for the Board of Registered Nursing, Respondent asserted that the controlled substances and dangerous drugs found in his residence on or about July 14, 2003 had been brought home by him from his place(s) of work as a nurse.

24. On or about January 20, 2004, during an interview with the same Division of Investigation investigator, Respondent asserted that the controlled substances and dangerous drugs found in his residence on or about July 14, 2003 had been brought home by him from his place(s) of work as a nurse in several separate episodes/deliveries, not in a single incident.

FIRST CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances)

25. Respondent is subject to disciplinary action under Code section 2761(a) and/or 2762(a) in that, as described in paragraphs 21-24 above, prior to and/or on or about July 14, 2003, Respondent possessed controlled substances without a valid prescription therefor, in violation of Code section 4060, and/or Health and Safety Code sections 11350(a) and 11377(a).

SECOND CAUSE FOR DISCIPLINE

(Unlawful Possession of Dangerous Drugs)

26. Respondent is subject to disciplinary action under Code section 2761(a) and/or 2762(a) in that, as described in paragraphs 21-24 above, prior to and/or on or about July 14, 2003, Respondent possessed dangerous drugs without a valid prescription therefor.

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THIRD CAUSE FOR DISCIPLINE

(Gross Negligence and/or Incompetence)

27. Respondent is subject to disciplinary action under Code section 2761(a)(1) in that, as described in paragraphs 21-24 above, on repeated occasions prior to and/or on or about July 14, 2003, Respondent exhibited gross negligence and/or incompetence by possessing and/or taking from his workplace(s) controlled substances and dangerous drugs.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

28. Respondent is subject to disciplinary action under Code section 2761(a) in that, as described in paragraphs 21-24 above, on repeated occasions prior to and/or on or about July 14, 2003, Respondent exhibited unprofessional conduct by possessing and/or taking from his workplace(s) controlled substances and dangerous drugs.

PRAYER

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

A. Revoking or suspending Registered Nurse License Number 555398, issued to Alfred J. Pinard, III.

B. Ordering Alfred J. Pinard, III to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 8/23/05

RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2005200311