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

11 In the Matter of the Accusation Against:

Case No. 6347

12 **CHVAT HEALTH SERVICES, INC.**  
13 **DBA NUEVO PHARMACY**

**ACCUSATION**

14 **75 West Nuevo Road, Ste. H**  
15 **Perris, CA 92571**

16 **Pharmacy Permit No. PHY 50826**

17 **JASON SCOTT CHVAT**  
18 **9503 Los Coches Ct.**  
**Riverside, CA 03508**

19 **Pharmacist License No. RPH 53345**

20 Respondents.

21  
22 Complainant alleges:

23 **PARTIES**

24 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
25 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

26 2. On or about March 21, 2012, the Board of Pharmacy issued Pharmacy Permit Number  
27 PHY 50826 to Chvat Health Services, Inc., doing business as Nuevo Pharmacy (Nuevo  
28

1 Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the charges  
2 brought herein and will expire on March 1, 2019, unless renewed.

3 3. On or about March 21, 2002, the Board of Pharmacy issued Pharmacist License  
4 Number RPH 53345 to Jason Scott Chvat (Jason Chvat). The Pharmacist License was in full  
5 force and effect at all times relevant to the charges brought herein and will expire on April 30,  
6 2018, unless renewed.

### 7 JURISDICTION

8 4. This Accusation is brought before the Board of Pharmacy (Board), Department of  
9 Consumer Affairs, under the authority of the following laws. All section references are to the  
10 Business and Professions Code (Code) unless otherwise indicated.

11 5. Section 4011 of the Code provides that the Board shall administer and enforce both  
12 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
13 Act [Health & Safety Code, § 11000 et seq.].

14 6. Section 4300, subdivision (a), of the Code provides that every license issued by the  
15 Board may be suspended or revoked.

16 7. Section 4300.1 of the Code states:

17 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
18 by operation of law or by order or decision of the board or a court of law, the  
19 placement of a license on a retired status, or the voluntary surrender of a license by a  
20 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
investigation of, or action or disciplinary proceeding against, the licensee or to render  
a decision suspending or revoking the license.

### 21 STATUTORY AND REGULATORY PROVISIONS

22 8. Section 4081 of the Code states in pertinent part:

23 (a) All records of manufacture and of sale, acquisition, or disposition of  
24 dangerous drugs or dangerous devices shall be at all times during business hours  
open to inspection by authorized officers of the law, and shall be preserved for at  
25 least three years from the date of making. A current inventory shall be kept by  
26 every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,  
physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution,  
27 or establishment holding a currently valid and unrevoked certificate, license,  
permit, registration, or exemption under Division 2 (commencing with Section  
28 1200) of the Health and Safety Code or under Part 4 (commencing with Section

1 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock  
2 of dangerous drugs or dangerous devices.

3 (b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary  
4 food-animal drug retailer shall be jointly responsible, with the  
5 pharmacist-in-charge or representative-in-charge, for maintaining the records and  
6 inventory described in this section.

7 9. Section 4105, subdivisions (a), (c) and (d)(1) of the Code state in pertinent part:

8 (a) All records or other documentation of the acquisition and disposition of  
9 dangerous drugs and dangerous devices by any entity licensed by the board shall be  
10 retained on the licensed premises in a readily retrievable form.

11 ...

12 (c) The records required by this section shall be retained on the licensed  
13 premises for a period of three years from the date of making.

14 (d)(1) Any records that are maintained electronically shall be maintained so that  
15 the pharmacist-in-charge, or the pharmacist on duty if the pharmacist-in-charge is not  
16 on duty, shall, at all times during which the licensed premises are open for business,  
17 be able to produce a hardcopy and electronic copy of all records of acquisition or  
18 disposition or other drug or dispensing-related records maintained electronically.

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

20 The board shall take action against any holder of a license who is guilty of  
21 unprofessional conduct or whose license has been issued by mistake. Unprofessional  
22 conduct shall include, but is not limited to, any of the following:

23 ...

24 (c) Gross negligence.

25 (d) The clearly excessive furnishing of controlled substances in violation of  
26 subdivision (a) of Section 11153 of the Health and Safety Code.

27 ...

28 (j) The violation of any of the statutes of this state, or any other state, or of the  
United States regulating controlled substances and dangerous drugs.

...

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

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11. Section 4113, subdivision (c), of the Code states:

The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

12. Sections 4169, subdivision (a)(5), of the Code states:

(a) A person or entity shall not do any of the following:

...

(5) Fail to maintain records of the acquisition or disposition of dangerous drugs or dangerous devices for at least three years.

13. Sections 4306.5, subdivisions (a), (b) and (c) of the Code states:

Unprofessional conduct for a pharmacist may include any of the following:

(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.

(c) Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

...

14. Section 4307, subdivision (a), of the Code states that:

(a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manger, administrator, owner, member, officer, director, associate, or partner had knowledge or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manger, administrator, owner, member, officer, director, associate, or partner of a licensee as follows:

(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five

years.

(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

15. Health and Safety Code section 11153, subdivision (a) states:

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

...

16. Section 1761 of title 16, California Code of Regulations states:

(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.

(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose.

### COST RECOVERY

17. 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.

### DRUGS

18. MS Contin is the brand name for morphine sulfate, a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(1)(L), and a dangerous drug pursuant to Business and Professions Code section 4022.









1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Records of Disposition)**

3 35. Respondents are subject to disciplinary action under Code section 4301(o), for  
4 violating Code sections 4081(a), 4105 and 4169(a)(5), in that they failed to maintain all the  
5 records of disposition, as set forth in paragraphs 18 through 29, which are incorporated herein by  
6 reference.

7 **SEVENTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**

9 36. Respondents are subject to disciplinary action under Code section 4301 for  
10 unprofessional conduct in that they engaged in the activities described in paragraphs 18 through  
11 29 above, which are incorporated herein by reference.

12 **OTHER MATTERS**

13 37. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit  
14 No. PHY 50826 issued to Chvat Health Services, Inc., dba Nuevo Pharmacy, Chvat Health  
15 Services, Inc., dba Nuevo Pharmacy shall be prohibited from serving as a manager, administrator,  
16 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy  
17 Permit Number PHY 50826 is placed on probation or until Pharmacy Permit Number PHY 50826  
18 is reinstated if it is revoked.

19 38. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY  
20 50826 issued to Chvat Health Services, Inc., dba Nuevo Pharmacy, while Jason Scott Chvat has  
21 been an officer and owner and had knowledge of or knowingly participated in any conduct for  
22 which the licensee was disciplined, Jason Scott Chvat shall be prohibited from serving as a  
23 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
24 five years if Pharmacy Permit Number PHY 50826 is placed on probation or until Pharmacy  
25 Permit Number PHY 50826 is reinstated if it is revoked.

26 39. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License  
27 No. RPH 53345 issued to Jason Scott Chvat, Jason Scott Chvat shall be prohibited from serving  
28 as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee

1 for five years if Pharmacist License Number RPH 53345 is placed on probation or until  
2 Pharmacist License Number RPH 53345 is reinstated if it is revoked.

3 **PRAYER**

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

6 1. Revoking or suspending Pharmacy Permit Number PHY 50826, issued to Respondent  
7 Chvat Health Services, Inc., dba Nuevo Pharmacy;

8 2. Revoking or suspending Pharmacist License Number RPH 53345, issued to  
9 Respondent Jason Scott Chvat;

10 3. Prohibiting Respondent Chvat Health Services, Inc., dba Nuevo Pharmacy from  
11 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a  
12 licensee for five years if Pharmacy Permit Number PHY 50826 is placed on probation or until  
13 Pharmacy Permit Number PHY 50826 is reinstated if Pharmacy Permit Number PHY 50826  
14 issued to Respondent Chvat Health Services, Inc., dba Nuevo Pharmacy is revoked;

15 4. Prohibiting Respondent Jason Scott Chvat from serving as a manager, administrator,  
16 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy  
17 Permit Number PHY 50826 is placed on probation or until Pharmacy Permit Number PHY 50826  
18 is reinstated if Pharmacy Permit Number PHY 50826 issued to Chvat Health Services, Inc., dba  
19 Nuevo Pharmacy is revoked;

20 5. Prohibiting Respondent Jason Scott Chvat from serving as a manager, administrator,  
21 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist  
22 License Number RPH 53345 is placed on probation or until Pharmacist License Number RPH  
23 53345 is reinstated if Pharmacist License Number RPH 53345 issued to Jason Scott Chvat is  
24 revoked;

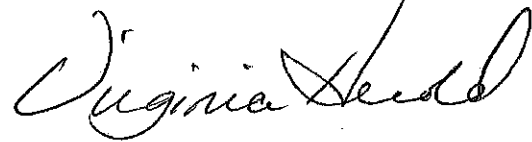
25 6. Ordering Respondents Chvat Health Services, Inc., dba Nuevo Pharmacy and Jason  
26 Scott Chvat to pay the Board of Pharmacy the reasonable costs of the investigation and  
27 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 3/30/18



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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