

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

In the Matter of the Accusation Against:

Case No. 6041

**NEWHALL PHARMACY, INC., DBA  
NEWHALL PHARMACY; JENISA  
NUSRAT CHOWDHURY, SOLE OWNER  
AND CORPORATE OFFICER**

**24239 Main Street  
Newhall, CA 91321  
Pharmacy Permit No. PHY 54078**

**23768 Newhall Avenue  
Newhall, CA 91321  
Pharmacy Permit No. PHY 51015  
(Canceled),**

**CHARLES M. ZANDBERG  
11840 Babbitt  
Grenada Hills, CA 91344**

**Pharmacist License No. RPH 22274,**

**and**

**JENISA NUSRAT CHOWDHURY  
28419 N. Horeshoe Circle  
Santa Clarita, CA 91390-5708**

**Pharmacist Intern Registration No. INT  
35196,**

Respondents.

**and**

In the Matter of the Accusation Against:

Case No. 6042

**CROWN VALLEY PHARMACY; JENISA  
NUSRAT CHOWDHURY and WILLON  
ALLEN HENDERSON, OWNERS  
3720 W. Sierra Hwy., Unit G  
Acton, CA 93510-1272**

**Pharmacy Permit No. PHY 51552,**

**JENISA NUSRAT CHOWDHURY**  
28419 N. Horeshoe Circle  
Santa Clarita, CA 91390-5708

**Pharmacist Intern Registration No. INT**  
**35196,**

**WILLON ALLEN HENDERSON, JR.**  
24969 Walnut St., #203  
Newhall, CA 91321

**Pharmacist License No. RPH 29129,**

**and**

**CHARLES M. ZANDBERG**  
11840 Babbitt  
Granada Hills, CA 91344

**Pharmacist License No. RPH 22274,**

Respondents.

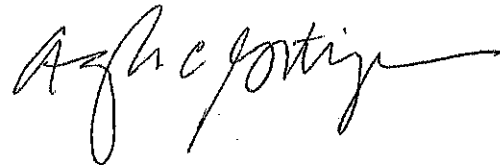
**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in these matters.

This Decision shall become effective at 5:00 p.m. on June 7, 2018.

It is so ORDERED on May 8, 2018.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.  
Board President

1 XAVIER BECERRA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 WILLIAM D. GARDNER  
Deputy Attorney General  
4 State Bar No. 244817  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6292  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Accusation Against:  
11  
12 **NEWHALL PHARMACY, INC., DBA**  
13 **NEWHALL PHARMACY; JENISA**  
**NUSRAT CHOWDHURY, SOLE OWNER**  
**AND CORPORATE OFFICER**

14 **24239 Main Street**  
**Newhall, CA 91321**  
15 **Pharmacy Permit No. PHY 54078**

16 **23768 Newhall Avenue**  
**Newhall, CA 91321**  
17 **Pharmacy Permit No. PHY 51015**  
18 **(Canceled),**

19 **CHARLES M. ZANDBERG**  
20 **11840 Babbitt**  
**Grenada Hills, CA 91344**

21 **Pharmacist License No. RPH 22274,**

22 **and**

23 **JENISA NUSRAT CHOWDHURY**  
24 **28419 N. Horeshoe Circle**  
**Santa Clarita, CA 91390-5708**

25 **Pharmacist Intern Registration No. INT**  
26 **35196,**

27 Respondents.

28 **and**

Case No. 6041

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

*[As to Respondent Charles M. Zandberg Only]*

1 In the Matter of the Accusation Against:

Case No. 6042

2 **CROWN VALLEY PHARMACY; JENISA**  
3 **NUSRAT CHOWDHURY and WILLON**  
4 **ALLEN HENDERSON, OWNERS**  
5 **3720 W. Sierra Hwy., Unit G**  
6 **Acton, CA 93510-1272**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

*[As to Respondent Charles M. Zandberg Only]*

7 **Pharmacy Permit No. PHY 51552,**

8 **JENISA NUSRAT CHOWDHURY**  
9 **28419 N. Horeshoe Circle**  
10 **Santa Clarita, CA 91390-5708**

11 **Pharmacist Intern Registration No. INT**  
12 **35196,**

13 **WILLON ALLEN HENDERSON, JR.**  
14 **24969 Walnut St., #203**  
15 **Newhall, CA 91321**

16 **Pharmacist License No. RPH 29129,**

17 **and**

18 **CHARLES M. ZANDBERG**  
19 **11840 Babbitt**  
20 **Granada Hills, CA 91344**

21 **Pharmacist License No. RPH 22274,**

22 Respondents.

23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to this  
24 Stipulated Surrender of License that the following matters are true:

25 **PARTIES**

26 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
27 She brought this action solely in her official capacity and is represented in these matters by  
28 Xavier Becerra, Attorney General of the State of California, by William D. Gardner, Deputy  
Attorney General.

2. Charles M. Zandberg is represented in these proceedings by attorney Armond  
Marcarian, whose business address is 31255 Cedar Valley Drive, Suite 301, Westlake Village,  
CA 91362.

3. On or about August 10, 1961, the Board of Pharmacy (Board) issued Pharmacist License Number RPH 22274 to Charles M. Zandberg (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2018, unless renewed.

## JURISDICTION

4. Accusation No. 6041 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 18, 2017. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 6041 is attached as Exhibit A and incorporated by reference.

5. Accusation No. 6042 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 18, 2017. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 6042 is attached as Exhibit B and incorporated by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 6041 and Accusation No. 6042. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusations; 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.

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

## 1

2

5

0

## 2

3

2.

5

1 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
2 executed by an authorized representative of each of the parties.

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

5 **ORDER**

6 IT IS HEREBY ORDERED that Pharmacist License Number RPH 22274 issued to Charles  
7 M. Zandberg is surrendered and accepted by the Board of Pharmacy.

8 1. The surrender of Respondent's Pharmacist License and the acceptance of the  
9 surrendered license by the Board shall constitute the imposition of discipline against Respondent.  
10 This stipulation constitutes a record of the discipline and shall become a part of Respondent's  
11 license history with the Board of Pharmacy.

12 2. Respondent shall lose all rights and privileges as a licensed pharmacist in California  
13 as of the effective date of the Board's Decision and Order.

14 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was  
15 issued, his wall certificate on or before the effective date of the Decision and Order.

16 4. Respondent shall not apply for licensure or petition for reinstatement for a period of  
17 three (3) years following the effective date of the Decision and Order. If Respondent ever files an  
18 application for licensure or a petition for reinstatement in the State of California, the Board shall  
19 treat it as an application for new licensure. Respondent must comply with all the laws,  
20 regulations and procedures for licensure in effect at the time the application or petition is filed,  
21 and all of the charges and allegations contained in Accusation No. 6042 shall be deemed to be  
22 true, correct and admitted by Respondent when the Board determines whether to grant or deny the  
23 application or petition.

24 **ACCEPTANCE**

25 I have carefully read the above Stipulated Surrender of License and Order and have fully  
26 discussed it with my attorney, Armond Marcarian. I understand the stipulation and the effect it  
27 will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order

28 ///

1 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
2 Board of Pharmacy.

3  
4 DATED:

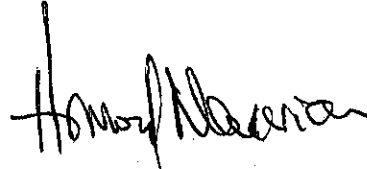
2-2-18

  
CHARLES M. ZANDBERG  
Respondent

5  
6  
7 I have read and fully discussed with Respondent Charles M. Zandberg the terms and  
8 conditions and other matters contained in this Stipulated Surrender of License and Order. I  
9 approve its form and content.

10  
11 DATED:

Feb. 5, 18

  
ARMOND MARCARIAN  
Attorney for Respondent

12  
13 ENDORSEMENT


14 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
15 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

16  
17 Dated:

3/5/18

Respectfully submitted,

18  
19 XAVIER BECERRA  
Attorney General of California  
20 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General

21   
22 WILLIAM D. GARDNER  
23 Deputy Attorney General  
24 Attorneys for Complainant

25 LA2017603571  
26 52759152  
27  
28



**Exhibit A**

**Accusation No. 6041**

1 XAVIER BECERRA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 WILLIAM D. GARDNER  
Deputy Attorney General  
4 State Bar No. 244817  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2114  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Accusation Against:

Case No. 6041

11 **NEWHALL PHARMACY, INC., DBA**  
12 **NEWHALL PHARMACY; JENISA**  
13 **NUSRAT CHOWDHURY, SOLE OWNER**  
**AND CORPORATE OFFICER**

**ACCUSATION**

14 24239 Main Street  
Newhall, CA 91321  
15 Pharmacy Permit No. PHY 54078

16 23768 Newhall Avenue  
Newhall, CA 91321  
17 Pharmacy Permit No. PHY 51015  
(Canceled),  
18

19 **CHARLES M. ZANDBERG**  
11840 Babbitt  
20 Grenada Hills, CA 91344

21 Pharmacist License No. RPH 22274,

22 and

23 **JENISA NUSRAT CHOWDHURY**  
28419 N. Horeshoe Circle  
24 Santa Clarita, CA 91390-5708

25 Pharmacist Intern Registration No. INT  
35196,  
26

27 Respondents.  
28

1 Complainant alleges:

2 PARTIES

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

5 2. On or about September 7, 2012, the Board of Pharmacy issued Pharmacy Permit  
6 Number PHY 51015 to Jenisa Nusrat Chowdhury, dba Newhall Pharmacy. On or about July 20,  
7 2015, Newhall Pharmacy was converted from an unincorporated sole proprietorship into a  
8 corporation and became Newhall Pharmacy, Inc., dba Newhall Pharmacy. Respondent Jenisa  
9 Nusrat Chowdhury was and is the corporation's sole owner and corporate officer. On or about  
10 March 9, 2016, Respondent Newhall Pharmacy Inc., relocated to a different location, and  
11 Pharmacy Permit Number PHY 51015 was canceled.

12 3. On or about May 9, 2016, the Board of Pharmacy issued Pharmacy Permit Number  
13 PHY 54078 to Newhall Pharmacy, Inc., dba Newhall Pharmacy, Jenisa Nusrat Chowdhury, sole  
14 owner and corporate officer. The Pharmacy Permit was in full force and effect at all times  
15 relevant to the charges brought herein and will expire on March 1, 2018, unless renewed.

16 4. On or about August 10, 1961, the Board of Pharmacy issued Pharmacist License  
17 Number RPH 22274 to Charles M. Zandberg. The Pharmacist License was in full force and  
18 effect at all times relevant to the charges brought herein and will expire on November 30, 2018,  
19 unless renewed.

20 5. On or about December 17, 2014, the Board of Pharmacy issued Pharmacist Intern  
21 Registration Number INT 35196 to Jenisa Nusrat Chowdhury. The Pharmacist Intern  
22 Registration was in full force and effect at all times relevant to the charges brought herein and  
23 will expire on June 30, 2018, unless renewed.

24 JURISDICTION FOR ACCUSATION

25 6. This Accusation is brought before the Board, under the authority of the following  
26 laws. All section references are to the Business and Professions Code unless otherwise indicated.  
27

28 ///

1       7.    Section 4300, subdivision (a) of the Code provides that "[e]very license issued may  
2 be suspended or revoked."

3       8.    Section 4011 of the Code states that in addition to administering and enforcing the  
4 Pharmacy Law (Cal. Bus. & Prof. §§ 4000, et seq.), the board shall administer and enforce "the  
5 Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health  
6 and Safety Code)."

7       9.    Section 4300.1 of the Code states:

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

13                               **STATUTES AND REGULATIONS**

14       **Pertinent State Law**

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

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

19       ...

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

22       ...

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

27       ///

28       ///

1        11. Section 4081 of the Code states:

2        "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs  
3 or dangerous devices shall be at all times during business hours open to inspection by authorized  
4 officers of the law, and shall be preserved for at least three years from the date of making. A  
5 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary  
6 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,  
7 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,  
8 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and  
9 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and  
10 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

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

14        12. Section 4333 of the Code states, in pertinent part, that all prescriptions filled by a  
15 pharmacy and all other records required by Section 4081 shall be maintained on the premises and  
16 available for inspection by authorized officers of the law for a period of at least three years.

17        13. Section 4105 of the Code states, in pertinent part:

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

21        ...

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

24        ....

25        14. Section 4302 of the Code states:

26        "The board may deny, suspend, or revoke any license where conditions exist in relation to  
27 any person holding 10 percent or more of the ownership interest or where conditions exist in

28        ///

1 relation to any officer, director, or other person with management or control of the license that  
2 would constitute grounds for disciplinary action against a licensee.”

3 15. Section 4307 of the Code states:

4 “(a) Any person who has been denied a license or whose license has been revoked or is  
5 under suspension, or who has failed to renew his or her license while it was under suspension, or  
6 who has been a manager, administrator, owner, member, officer, director, associate, partner, or  
7 any other person with management or control of any partnership, corporation, trust, firm, or  
8 association whose application for a license has been denied or revoked, is under suspension or has  
9 been placed on probation, and while acting as the manager, administrator, owner, member,  
10 officer, director, associate, partner, or any other person with management or control had  
11 knowledge of or knowingly participated in any conduct for which the license was denied,  
12 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,  
13 administrator, owner, member, officer, director, associate, partner, or in any other position with  
14 management or control of a licensee as follows:

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

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

19 (b) “Manager, administrator, owner, member, officer, director, associate, partner, or any  
20 other person with management or control of a license” as used in this section and Section 4308,  
21 may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.

22 (c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to  
23 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.  
24 However, no order may be issued in that case except as to a person who is named in the caption,  
25 as to whom the pleading alleges the applicability of this section, and where the person has been  
26 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part  
27 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision

28 ///

1 shall be in addition to the board's authority to proceed under Section 4339 or any other provision  
2 of law.

3 16. Section 4113, subdivision (c) of the Code states, in pertinent part:

4 ...

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

7 ....

8 17. Health and Safety Code section 11164 states, in pertinent part:

9 "Except as provided in Section 11167, no person shall prescribe a controlled substance, nor  
10 shall any person fill, compound, or dispense a prescription for a controlled substance, unless it  
11 complies with the requirements of this section.

12 "(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V,  
13 except as authorized by subdivision (b), shall be made on a controlled substance prescription form  
14 as specified in Section 11162.1 and shall meet the following requirements:

15 "(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the  
16 prescriber's address and telephone number; the name of the ultimate user or research subject; or  
17 contact information as determined by the Secretary of the United States Department of Health and  
18 Human Services; refill information, such as the number of refills ordered and whether the  
19 prescription is a first-time request or a refill; and the name, quantity, strength, and directions for  
20 use of the controlled substance prescribed."

21 18. Health and Safety Code section 11165, subdivision (d), provides:

22 "For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance,  
23 as defined in the controlled substances schedules in federal law and regulations, specifically  
24 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal  
25 Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following  
26 information to the Department of Justice as soon as reasonably possible, but not more than seven  
27 days after the date a controlled substance is dispensed, in a format specified by the Department of  
28 Justice:

1 (1) Full name, address, and, if available, telephone number of the ultimate user or  
2 research subject, or contact information as determined by the Secretary of the United  
3 States Department of Health and Human Services, and the gender, and date of birth of  
4 the ultimate user.

5 (2) The prescriber's category of licensure, license number, national provider identifier  
6 (NPI) number, if applicable, the federal controlled substance registration number, and  
7 the state medical license number of any prescriber using the federal controlled  
8 substance registration number of a government-exempt facility.

9 (3) Pharmacy prescription number, license number, NPI number, and federal  
10 controlled substance registration number.

11 (4) National Drug Code (NDC) number of the controlled substance dispensed.

12 (5) Quantity of the controlled substance dispensed.

13 (6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th  
14 revision (ICD-10) Code, if available.

15 (7) Number of refills ordered.

16 (8) Whether the drug was dispensed as a refill of a prescription or as a first-time  
17 request.

18 (9) Date of origin of the prescription.

19 (10) Date of dispensing of the prescription."

20 19. Health and Safety Code section 11179 provides:

21 "A person who fills a prescription shall keep it on file for at least three years from the date  
22 of filling it."

23 20. Health and Safety Code section 11205 provides:

24 "The owner of a pharmacy or any person who purchases a controlled substance upon  
25 federal order forms as required pursuant to the provisions of the Federal "Comprehensive Drug  
26 Abuse Prevention and Control Act of 1970," (P.L. 91-513, 84 Stat. 1236),<sup>1</sup> relating to the  
27 importation, exportation, manufacture, production, compounding, distribution, dispensing, and  
28 control of controlled substances, and who sells controlled substances obtained upon such federal



1 order forms in response to prescriptions shall maintain and file such prescriptions in a separate  
2 file apart from noncontrolled substances prescriptions. Such files shall be preserved for a period  
3 of three years."

4 21. Health and Safety Code section 11208 provides:

5 "In a prosecution under this division, proof that a defendant received or has had in his  
6 possession at any time a greater amount of controlled substances than is accounted for by any  
7 record required by law or that the amount of controlled substances possessed by the defendant is a  
8 lesser amount than is accounted for by any record required by law is prima facie evidence of  
9 guilt."

10 22. Health and Safety Code section 11209, subdivision (a), provides in pertinent part:

11 "No person shall deliver Schedule II, III, or IV controlled substances to a pharmacy or  
12 pharmacy receiving area, nor shall any person receive controlled substances on behalf of a  
13 pharmacy unless, at the time of delivery, a pharmacist or authorized receiving personnel signs a  
14 receipt showing the type and quantity of the controlled substances received."

15 23. California Code of Regulations, title 16, section 1714, states in pertinent part:

16 "(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and  
17 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.  
18 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice  
19 of pharmacy.

20 ...

21 (d) Each pharmacist while on duty shall be responsible for the security of the prescription  
22 department, including provisions for effective control against theft or diversion of dangerous  
23 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy  
24 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

25 ...

26 ///

27 ///

28 ///

1 Pertinent Federal Law

2 24. United States Code, title 21, section 829, subdivision (a), provides:

3 "Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate  
4 user, no controlled substance in schedule II, which is a prescription drug as determined under the  
5 Federal Food, Drug, and Cosmetic Act [21 U.S.C.A. § 301 et seq.], may be dispensed without the  
6 written prescription of a practitioner . . . ."

7 25. Federal Code of Regulations, title 21, section 1304.11, provides:

8 "(a) General requirements. Each inventory shall contain a complete and accurate record of  
9 all controlled substances on hand on the date the inventory is taken, and shall be maintained in  
10 written, typewritten, or printed form at the registered location. An inventory taken by use of an  
11 oral recording device must be promptly transcribed. Controlled substances shall be deemed to be  
12 "on hand" if they are in the possession of or under the control of the registrant, including  
13 substances returned by a customer, ordered by a customer but not yet invoiced, stored in a  
14 warehouse on behalf of the registrant, and substances in the possession of employees of the  
15 registrant and intended for distribution as complimentary samples. A separate inventory shall be  
16 made for each registered location and each independent activity registered, except as provided in  
17 paragraph (e)(4) of this section. In the event controlled substances in the possession or under the  
18 control of the registrant are stored at a location for which he/she is not registered, the substances  
19 shall be included in the inventory of the registered location to which they are subject to control or  
20 to which the person possessing the substance is responsible. The inventory may be taken either as  
21 of opening of business or as of the close of business on the inventory date and it shall be indicated  
22 on the inventory.

23 "(b) Initial inventory date. Every person required to keep records shall take an inventory of  
24 all stocks of controlled substances on hand on the date he/she first engages in the manufacture,  
25 distribution, or dispensing of controlled substances, in accordance with paragraph (e) of this  
26 section as applicable. In the event a person commences business with no controlled substances on  
27 hand, he/she shall record this fact as the initial inventory.

28 ///

1       “(c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a  
2 new inventory of all stocks of controlled substances on hand at least every two years. The  
3 biennial inventory may be taken on any date which is within two years of the previous biennial  
4 inventory date.”

#### 5                                   COST RECOVERY

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

#### 10                                  FACTUAL BACKGROUND

11       27. Between September 7, 2012, and July 20, 2015, Respondent Newhall Pharmacy was  
12 an unincorporated business owned by Respondent Chowdhury as a sole proprietorship. On or  
13 about July 20, 2015, the pharmacy incorporated and became Newhall Pharmacy, Inc. Respondent  
14 Chowdhury was and is the corporation's sole owner and corporate officer. At all times relevant  
15 to the allegations set forth herein, Respondent Zandberg was designated as Newhall Pharmacy's  
16 pharmacist-in- charge.<sup>1</sup>

17       28. On or about April 14, 2015, the Board received an anonymous online complaint  
18 involving Respondent Newhall Pharmacy's acquisition and dispensing of certain controlled  
19 substances. Among other things, the complaint alleged that Newhall Pharmacy was selling  
20 oxycodone pills and a codeine-laced cough syrup (i.e., promethazine with codeine) to people  
21 without a prescription. Oxycodone and promethazine with codeine are commonly abused  
22 controlled substances with significant “street values.”

23       29. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code  
24 section 11055, subdivision (b)(1)(M) and is a dangerous drug pursuant to Code section 4022.

25  
26       <sup>1</sup> At all times relevant to the allegations set forth herein, Respondent Chowdhury's father,  
27 Moazzem Chowdhury, served as Newhall Pharmacy's manager. Moazzem Chowdhury is a  
28 registered pharmacist whose license is currently on probation pursuant to the decision and order  
in the disciplinary action entitled *In the Matter of the Accusation Against Moazzem H.  
Chowdhury, dba Desert Drugs, et al*, Case No. 3917 (OAH No. 2014010146).

1       30. Promethazine with codeine is a Schedule V controlled substance pursuant to Health  
2 and Safety Code section 11058, subdivision (c) and is a dangerous drug pursuant to Code section  
3 4022.

4       31. On or about August 13, 2015, a Board inspector performed an inspection of Newhall  
5 Pharmacy. Federal law requires pharmacies to complete and maintain an "initial inventory" of  
6 any and all controlled substances in its stock as of the first day on which the pharmacy begins  
7 dispensing controlled substances and also requires that subsequent "biennial inventories" be  
8 performed at least every two (2) years thereafter. (See 21 CFR § 1304.) Among other things, the  
9 inspector asked to review Newhall Pharmacy's controlled substance inventories. Although  
10 Newhall Pharmacy had been in operation since September 2012 and had been dispensing  
11 controlled substances since that time, the pharmacy never performed an initial controlled  
12 substance inventory, and the only controlled substance inventory available was an *incomplete*  
13 inventory dated May 1, 2015. The inspector issued a notice of non-compliance to the pharmacy  
14 related to the controlled substance inventory violations and admonished the pharmacy to perform  
15 a complete controlled substance inventory immediately and to provide a copy of that inventory to  
16 the Board. Newhall Pharmacy provided a complete controlled substance inventory to the Board  
17 on August 17, 2015.

18       32. The inspector also obtained a variety of records related to Newhall Pharmacy's  
19 acquisition and dispensing of: (1) oxycodone; (2) oxycodone with acetaminophen (hereinafter,  
20 "oxycodone/apap"); and (3) promethazine with codeine between September 2012 and August  
21 2015. These documents included acquisition records from pharmaceutical wholesalers used by  
22 Newhall Pharmacy, the pharmacy's own dispensing records, records related to the pharmacy's  
23 transactions with a reverse distributor, original prescriptions, and reports from the Controlled  
24 Substance Utilization Review and Evaluation System ("CURES.")<sup>2</sup>

25       <sup>22</sup> CURES is a system for monitoring patient controlled substance history information.  
26 California Health and Safety Code section 11165 requires pharmacies to report within 7 days to  
27 the California Department of Justice every schedule II, III and IV drug prescription that is written  
28 or dispensed, and the information provided establishes the CURES database, which includes  
information about the drug dispensed, drug quantity and strength, patient name, address,  
prescriber name, and prescriber authorization number including DEA number and prescription  
number.

33. These records revealed a vast disparity between the pharmacy's actual inventory of certain controlled substances and the legally documented inventory that should have been present. Specifically, the records demonstrated that Newhall Pharmacy was short in its inventory of oxycodone 30 mg by 2,748 pills, short in its inventory of oxycodone/apap 7.5-325 mg by 400 pills, short in its inventory of oxycodone 10 mg by 85 pills, short in its inventory of oxycodone 15 mg pills by 40 pills, and short in its inventory of promethazine with codeine by 322 bottles (i.e. more than 152,000 ml). Moreover, the records revealed that Newhall Pharmacy also could not account for the presence of large amounts of other controlled substances in its inventory. For example, Newhall Pharmacy's inventory included 1,025 oxycodone/apap 10-325 mg pills for which there were no acquisition records and 828 oxycodone/apap 5-325 mg pills for which there were no acquisition records.

34. The inspector's analysis of the records also revealed multiple discrepancies between the quantities of oxycodone/apap dispensed pursuant to actual prescriptions versus the quantity dispensed pursuant to the pharmacy's dispensing records and the number of prescriptions and quantity dispensed as reported to CURES. In addition, Newhall Pharmacy could not produce the original prescriptions for three (3) purported prescriptions of oxycodone/apap that it had filled, indicating that the pharmacy had dispensed the drugs without prescriptions.

**FIRST CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct)**

35. Respondents Newhall Pharmacy, Zandberg, and Chowdhury are subject to disciplinary action under section 4301 in that Respondents engaged in unprofessional conduct. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 27 through 34, inclusive, as though set forth fully herein.

## SECOND CAUSE FOR DISCIPLINE

**(Violation of Pharmacy Law: Acquisition & Disposition Records)**

36. Respondents Newhall Pharmacy, Zandberg, and Chowdhury are subject to disciplinary action under section 4301, subdivision (o), in conjunction with section 4081 and section 4105 in that Respondents failed to maintain acquisition, sale and/or disposition records

1 related to thousands of oxycodone pills and hundreds of bottles of promethazine with codeine  
2 missing from its inventory and nearly 2000 oxycodone/apap pills present in its inventory.  
3 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
4 paragraphs 27 through 34, inclusive, as though set forth fully herein.

### 5 THIRD CAUSE FOR DISCIPLINE

#### 6 (Violation of Pharmacy Law: Operational Standards)

7 37. Respondents Newhall Pharmacy, Zandberg, and Chowdhury are subject to  
8 disciplinary action under section 4301, subdivision (o), in conjunction with section California  
9 Code of Regulations, title 16, section 1714, in that Respondents failed maintain Newhall  
10 Pharmacy's facilities, space, fixtures, and equipment such that drugs were safely and properly  
11 maintained, secured and distributed as evidenced by the vast discrepancies between its in-stock  
12 inventory and the inventory denoted by its acquisition and dispensing records. Complainant  
13 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 27  
14 through 34, inclusive, as though set forth fully herein.

### 15 FOURTH CAUSE FOR DISCIPLINE

#### 16 (Violation of Pharmacy Law: Original Prescriptions)

17 38. Respondents Newhall Pharmacy, Zandberg, and Chowdhury are subject to  
18 disciplinary action under section 4301, subdivision (o), in conjunction with section 4333 in that  
19 Respondents failed to maintain the original prescriptions for three (3) purported prescriptions of  
20 oxycodone/apap that it filled. Complainant refers to, and by this reference incorporates, the  
21 allegations set forth above in paragraphs 27 through 34, inclusive, as though set forth fully herein.

### 22 FIFTH CAUSE FOR DISCIPLINE

#### 23 (Misconduct by Owner and/or Persons with Management or Control)

24 39. Respondent Newhall Pharmacy is subject to disciplinary action under section 4302 in  
25 that grounds for disciplinary action exist with respect to a person holding 10 percent or more of  
26 the ownership interest in the pharmacy and/or a person with management or control of the  
27 pharmacy. Complainant refers to, and by this reference incorporates, the allegations set forth  
28 above in paragraphs 27 through 34, inclusive, as though set forth fully herein.



21, section 1304.11, in that Respondents failed to complete an initial inventory of controlled substances or to timely complete a biennial inventory of controlled substances as required under federal law. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 27 through 34, inclusive, as though set forth fully herein.

**PRAYER**

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

1. Revoking or suspending Pharmacy Permit Number PHY 51015 issued to Jenisa Nusrat Chowdhury, dba Newhall Pharmacy;

2. Revoking or suspending Pharmacy Permit Number PHY 54078 issued to Newhall Pharmacy, Inc., dba Newhall Pharmacy, Jenisa Nusrat Chowdhury, sole owner and corporate officer;

3. Revoking or suspending Pharmacist License Number RPH 22274 issued to Charles M. Zandberg;

4. Revoking or suspending Pharmacist Intern Registration Number INT 35196, issued to Jenisa Nusrat Chowdhury;

5. Prohibiting Jenisa Chowdhury from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 51015 is placed on probation or until Pharmacy Permit Number PHY 51015 is reinstated if Pharmacy Permit Number PHY 51015 issued to Jenisa Nusrat Chowdhury, dba Newhall Pharmacy is revoked;

6. Prohibiting Jenisa Chowdhury from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 54078 is placed on probation or until Pharmacy Permit Number PHY 54078 is reinstated if Pharmacy Permit Number 42891 issued to Newhall Pharmacy, Inc. is revoked;

7. Prohibiting Newhall Pharmacy, Inc. from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 54078 is placed on probation or until Pharmacy Permit Number PHY 54078 is



1 reinstated if Pharmacy Permit Number 42891 issued to Newhall Pharmacy, Inc. is revoked;

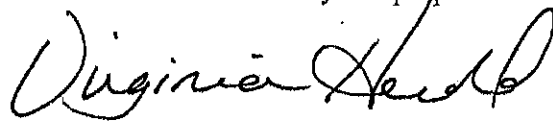
2 8. Prohibiting Charles M. Zandberg from serving as a manager, administrator, owner,  
3 member, officer, director, associate, or partner of a licensee for five years if Pharmacy  
4 Permit Number PHY 51015 is placed on probation or until Pharmacy Permit Number PHY 51015  
5 is reinstated if Pharmacy Permit Number PHY 51015 issued to Jenisa Nusrat Chowdhury, dba  
6 Newhall Pharmacy is revoked;

7 9. Prohibiting Charles M. Zandberg from serving as a manager, administrator, owner,  
8 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
9 Number PHY 54078 is placed on probation or until Pharmacy Permit Number PHY 54078 is  
10 reinstated if Pharmacy Permit Number 42891 issued to Newhall Pharmacy, Inc. is revoked;

11 10. Ordering that Newhall Pharmacy, Inc., Jenisa Nusrat Chowdhury, and Charles M.  
12 Zandberg, are jointly and severally obligated to pay reasonable costs of the investigation and  
13 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

14 11. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: 11/11/17



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

17  
18  
19  
20  
21 LA2017603570  
52546657.docx  
22  
23  
24  
25  
26  
27  
28

**Exhibit B**

**Accusation No. 6042**

1 XAVIER BECERRA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 WILLIAM D. GARDNER  
Deputy Attorney General  
4 State Bar No. 244817  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2114  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 6042

11 **CROWN VALLEY PHARMACY; JENISA**  
12 **NUSRAT CHOWDHURY and WILLON**  
13 **ALLEN HENDERSON, OWNERS**  
14 **3720 W. Sierra Hwy., Unit G**  
**Acton, CA 93510-1272**

**ACCUSATION**

15 **Pharmacy Permit No. PHY 51552,**

16 **JENISA NUSRAT CHOWDHURY**  
17 **28419 N. Horeshoe Circle**  
**Santa Clarita, CA 91390-5708**

18 **Pharmacist Intern Registration No. INT**  
**35196,**

19 **WILLON ALLEN HENDERSON, JR.**  
20 **24969 Walnut St., #203**  
**Newhall, CA 91321**

21 **Pharmacist License No. RPH 29129,**

22 **and**

23 **CHARLES M. ZANDBERG**  
24 **11840 Babbitt**  
**Granada Hills, CA 91344**

25 **Pharmacist License No. RPH 22274,**

26 Respondents.

27  
28 ///

1 Complainant alleges:

2 PARTIES

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

5 2. On or about September 25, 2013, the Board of Pharmacy issued Pharmacy Permit  
6 Number PHY 51552 to Crown Valley Pharmacy; Jenisa Nusrat Chowdhury and Willon Allen  
7 Henderson, owners. The Pharmacy Permit was in full force and effect at all times relevant to the  
8 charges brought herein and will expire on March 24, 2018, unless renewed.

9 3. On or about December 17, 2014, the Board of Pharmacy issued Pharmacist Intern  
10 Registration Number INT 35196 to Jenisa Nusrat Chowdhury. The Pharmacist Intern  
11 Registration was in full force and effect at all times relevant to the charges brought herein and  
12 will expire on June 30, 2018, unless renewed.

13 4. On or about July 17, 1974, the Board of Pharmacy issued Pharmacist License  
14 Number RPH 29129 to Willon Allen Henderson, Jr. The Pharmacist License was in full force and  
15 effect at all times relevant to the charges brought herein and will expire on July 31, 2018, unless  
16 renewed.

17 5. On or about August 10, 1961, the Board of Pharmacy issued Pharmacist License  
18 Number RPH 22274 to Charles M. Zandberg. The Pharmacist License was in full force and  
19 effect at all times relevant to the charges brought herein and will expire on November 30, 2018,  
20 unless renewed.

21 JURISDICTION

22 6. This Accusation is brought before the Board, under the authority of the following  
23 laws. All section references are to the Business and Professions Code unless otherwise indicated.

24 7. Section 4300, subdivision (a) of the Code provides that "[e]very license issued may  
25 be suspended or revoked."

26 8. Section 4011 of the Code states that in addition to administering and enforcing the  
27 Pharmacy Law (Cal. Bus. & Prof. §§ 4000, et seq.), the board shall administer and enforce "the

28 ///

1 Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health  
2 and Safety Code)."

3 9. Section 4300.1 of the Code states:

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

9 **STATUTES AND REGULATIONS**

10 **Pertinent State Law**

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

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

15 ...

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

18 ...

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

23 11. Section 4081 of the Code states:

24 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs  
25 or dangerous devices shall be at all times during business hours open to inspection by authorized  
26 officers of the law, and shall be preserved for at least three years from the date of making. A  
27 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary  
28 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,

1 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,  
2 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and  
3 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and  
4 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

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

8 12. Section 4333 of the Code states, in pertinent part, that all prescriptions filled by a  
9 pharmacy and all other records required by Section 4081 shall be maintained on the premises and  
10 available for inspection by authorized officers of the law for a period of at least three years.

11 13. Section 4105 of the Code states, in pertinent part:

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

15 ...  
16 "(c) The records required by this section shall be retained on the licensed premises for a  
17 period of three years from the date of making.

18 ....  
19 14. Section 4302 of the Code states:

20 "The board may deny, suspend, or revoke any license where conditions exist in relation to  
21 any person holding 10 percent or more of the ownership interest or where conditions exist in  
22 relation to any officer, director, or other person with management or control of the license that  
23 would constitute grounds for disciplinary action against a licensee."

24 15. Section 4307 of the Code states:

25 "(a) Any person who has been denied a license or whose license has been revoked or is  
26 under suspension, or who has failed to renew his or her license while it was under suspension, or  
27 who has been a manager, administrator, owner, member, officer, director, associate, partner, or  
28 any other person with management or control of any partnership, corporation, trust, firm, or

1 association whose application for a license has been denied or revoked, is under suspension or has  
2 been placed on probation, and while acting as the manager, administrator, owner, member,  
3 officer, director, associate, partner, or any other person with management or control had  
4 knowledge of or knowingly participated in any conduct for which the license was denied,  
5 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,  
6 administrator, owner, member, officer, director, associate, partner, or in any other position with  
7 management or control of a licensee as follows:

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

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

12 (b) "Manager, administrator, owner, member, officer, director, associate, partner, or any  
13 other person with management or control of a license" as used in this section and Section 4308,  
14 may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.

15 (c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to  
16 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.  
17 However, no order may be issued in that case except as to a person who is named in the caption,  
18 as to whom the pleading alleges the applicability of this section, and where the person has been  
19 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part  
20 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision  
21 shall be in addition to the board's authority to proceed under Section 4339 or any other provision  
22 of law.

23 16. Section 4113, subdivision (c) of the Code states, in pertinent part:

24 ...

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

27 ....

28 ///

1 17. Health and Safety Code section 11164 states, in pertinent part:

2 "Except as provided in Section 11167, no person shall prescribe a controlled substance, nor  
3 shall any person fill, compound, or dispense a prescription for a controlled substance, unless it  
4 complies with the requirements of this section.

5 "(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V,  
6 except as authorized by subdivision (b), shall be made on a controlled substance prescription form  
7 as specified in Section 11162.1 and shall meet the following requirements:

8 "(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the  
9 prescriber's address and telephone number; the name of the ultimate user or research subject, or  
10 contact information as determined by the Secretary of the United States Department of Health and  
11 Human Services; refill information, such as the number of refills ordered and whether the  
12 prescription is a first-time request or a refill; and the name, quantity, strength, and directions for  
13 use of the controlled substance prescribed."

14 18. Health and Safety Code section 11165, subdivision (d), provides:

15 "For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance,  
16 as defined in the controlled substances schedules in federal law and regulations, specifically  
17 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal  
18 Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following  
19 information to the Department of Justice as soon as reasonably possible, but not more than seven  
20 days after the date a controlled substance is dispensed, in a format specified by the Department of  
21 Justice:

22 (1) Full name, address, and, if available, telephone number of the ultimate user or  
23 research subject, or contact information as determined by the Secretary of the United  
24 States Department of Health and Human Services, and the gender, and date of birth of  
25 the ultimate user.

26 (2) The prescriber's category of licensure, license number, national provider identifier  
27 (NPI) number, if applicable, the federal controlled substance registration number, and

28 ///



1 the state medical license number of any prescriber using the federal controlled  
2 substance registration number of a government-exempt facility.

3 (3) Pharmacy prescription number, license number, NPI number, and federal  
4 controlled substance registration number.

5 (4) National Drug Code (NDC) number of the controlled substance dispensed.

6 (5) Quantity of the controlled substance dispensed.

7 (6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th  
8 revision (ICD-10) Code, if available.

9 (7) Number of refills ordered.

10 (8) Whether the drug was dispensed as a refill of a prescription or as a first-time  
11 request.

12 (9) Date of origin of the prescription.

13 (10) Date of dispensing of the prescription."

14 19. Health and Safety Code section 11179 provides:

15 "A person who fills a prescription shall keep it on file for at least three years from the date  
16 of filling it."

17 20. Health and Safety Code section 11205 provides:

18 "The owner of a pharmacy or any person who purchases a controlled substance upon  
19 federal order forms as required pursuant to the provisions of the Federal "Comprehensive Drug  
20 Abuse Prevention and Control Act of 1970," (P.L. 91-513, 84 Stat. 1236),<sup>1</sup> relating to the  
21 importation, exportation, manufacture, production, compounding, distribution, dispensing, and  
22 control of controlled substances, and who sells controlled substances obtained upon such federal  
23 order forms in response to prescriptions shall maintain and file such prescriptions in a separate  
24 file apart from noncontrolled substances prescriptions. Such files shall be preserved for a period  
25 of three years."

26 21. Health and Safety Code section 11208 provides:

27 "In a prosecution under this division, proof that a defendant received or has had in his  
28 possession at any time a greater amount of controlled substances than is accounted for by any

1 record required by law or that the amount of controlled substances possessed by the defendant is a  
2 lesser amount than is accounted for by any record required by law is prima facie evidence of  
3 guilt."

4 22. Health and Safety Code section 11209, subdivision (a), provides in pertinent part:

5 "No person shall deliver Schedule II, III, or IV controlled substances to a pharmacy or  
6 pharmacy receiving area, nor shall any person receive controlled substances on behalf of a  
7 pharmacy unless, at the time of delivery, a pharmacist or authorized receiving personnel signs a  
8 receipt showing the type and quantity of the controlled substances received."

9 23. California Code of Regulations, title 16, section 1714, states in pertinent part:

10 "(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and  
11 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.  
12 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice  
13 of pharmacy.

14 ...

15 (d) Each pharmacist while on duty shall be responsible for the security of the prescription  
16 department, including provisions for effective control against theft or diversion of dangerous  
17 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy  
18 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

19 ...

20 **Pertinent Federal Law**

21 24. United States Code, title 21, section 829, subdivision (a), provides:

22 "Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate  
23 user, no controlled substance in schedule II, which is a prescription drug as determined under the  
24 Federal Food, Drug, and Cosmetic Act [21 U.S.C.A. § 301 et seq.], may be dispensed without the  
25 written prescription of a practitioner . . . ."

26 25. Federal Code of Regulations, title 21, section 1304.04, subdivision (h), provides in  
27 pertinent part:

28 ///

1 "Each registered pharmacy shall maintain the inventories and records of controlled  
2 substances as follows:

3 (1) Inventories and records of all controlled substances listed in Schedule I and II  
4 shall be maintained separately from all other records of the pharmacy.

5 ...  
6 26. Federal Code of Regulations, title 21, section 1304.11, provides:

7 "(a) General requirements. Each inventory shall contain a complete and accurate record of  
8 all controlled substances on hand on the date the inventory is taken, and shall be maintained in  
9 written, typewritten, or printed form at the registered location. An inventory taken by use of an  
10 oral recording device must be promptly transcribed. Controlled substances shall be deemed to be  
11 "on hand" if they are in the possession of or under the control of the registrant, including  
12 substances returned by a customer, ordered by a customer but not yet invoiced, stored in a  
13 warehouse on behalf of the registrant, and substances in the possession of employees of the  
14 registrant and intended for distribution as complimentary samples. A separate inventory shall be  
15 made for each registered location and each independent activity registered, except as provided in  
16 paragraph (e)(4) of this section. In the event controlled substances in the possession or under the  
17 control of the registrant are stored at a location for which he/she is not registered, the substances  
18 shall be included in the inventory of the registered location to which they are subject to control or  
19 to which the person possessing the substance is responsible. The inventory may be taken either as  
20 of opening of business or as of the close of business on the inventory date and it shall be indicated  
21 on the inventory.

22 "(b) Initial inventory date. Every person required to keep records shall take an inventory of  
23 all stocks of controlled substances on hand on the date he/she first engages in the manufacture,  
24 distribution, or dispensing of controlled substances, in accordance with paragraph (e) of this  
25 section as applicable. In the event a person commences business with no controlled substances on  
26 hand, he/she shall record this fact as the initial inventory.

27 "(c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a  
28 new inventory of all stocks of controlled substances on hand at least every two years. The

1 biennial inventory may be taken on any date which is within two years of the previous biennial  
2 inventory date.”

3 **COST RECOVERY**

4 27. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
5 administrative law judge to direct a licensee found to have committed a violation or violations of  
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
7 enforcement of the case.

8 **FACTUAL BACKGROUND**

9 28. Respondent Crown Valley Pharmacy has been in operation since September 2013. At  
10 all times relevant to the allegations set forth herein, Crown Valley Pharmacy was owned by  
11 Respondent Chowdhury (49% owner) and Respondent Henderson (51% owner). At all times  
12 relevant to the allegations set forth herein, Respondent Zandberg was designated as Crown Valley  
13 Pharmacy's pharmacist-in-charge.<sup>1</sup>

14 29. On or about April 14, 2015, the Board received an anonymous online complaint  
15 involving Respondent Crown Valley Pharmacy's acquisition and dispensing of certain controlled  
16 substances. Among other things, the complaint alleged that Crown Valley was selling oxycodone  
17 pills and a codeine-laced cough syrup (i.e., promethazine with codeine) to people without a  
18 prescription. Oxycodone and promethazine with codeine are commonly abused controlled  
19 substances with significant “street values.”

20 30. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code  
21 section 11055, subdivision (b)(1)(M) and is a dangerous drug pursuant to Code section 4022.

22 ///

23 ///

24  
25  
26 <sup>1</sup> At all times relevant to the allegations set forth herein, Respondent Chowdhury's father,  
27 Moazzem Chowdhury, served as Crown Valley Pharmacy's manager. Moazzem Chowdhury is a  
28 registered pharmacist whose license is currently on probation pursuant to the decision and order  
in the disciplinary action entitled *In the Matter of the Accusation Against Moazzem H.  
Chowdhury, dba Desert Drugs, et al*, Case No. 3917 (OAH No. 2014010146).

1 31. Promethazine with codeine is a Schedule V controlled substance pursuant to Health  
2 and Safety Code section 11058, subdivision (c) and is a dangerous drug pursuant to Code section  
3 4022.

4 32. On or about August 13, 2015, a Board inspector performed an inspection of Crown  
5 Valley Pharmacy. Federal law requires pharmacies to complete and maintain an "initial  
6 inventory" of any and all controlled substances in its stock as of the first day on which the  
7 pharmacy begins dispensing controlled substances and also requires that subsequent "biennial  
8 inventories" be performed at least every two (2) years thereafter. (See 21 CFR § 1304.) Among  
9 other things, the inspector asked to review Crown Valley's initial controlled substance inventory.  
10 Although Crown Valley had been in operation and dispensed controlled substances prior to  
11 January 30, 2014, the initial controlled substance inventory was not performed and/or completed  
12 until January 30, 2014. In addition, the inventory for Schedule II controlled substances was not  
13 maintained separately from all other records of the pharmacy as required by federal law.  
14 The inspector advised Crown Pharmacy's pharmacist-in-charge, Respondent Zandberg, that a  
15 complete and compliant inventory should be performed and provided to the Board. The Board  
16 received a copy of the newly completed controlled substance inventory the following day.

17 33. The inspector also obtained a variety of records related to Crown Valley Pharmacy's  
18 acquisition and dispensing of: (1) oxycodone; (2) oxycodone with acetaminophen (hereinafter,  
19 "oxycodone/apap"); and (3) promethazine with codeine between September 2013 and August  
20 2015. Those documents included acquisition records from pharmaceutical wholesalers used by  
21 Crown Valley Pharmacy, the pharmacy's own dispensing records, records related to the  
22 pharmacy's transactions with a reverse distributor, original prescriptions, and reports from the  
23 Controlled Substance Utilization Review and Evaluation System ("CURES.")<sup>2</sup>

24 ///

25 <sup>22</sup> CURES is a system for monitoring patient controlled substance history information.  
26 California Health and Safety Code section 11165 requires pharmacies to report within 7 days to  
27 the California Department of Justice every schedule II, III and IV drug prescription that is written  
28 or dispensed, and the information provided establishes the CURES database, which includes  
information about the drug dispensed, drug quantity and strength, patient name, address,  
prescriber name, and prescriber authorization number including DEA number and prescription  
number.

1 34. These records revealed a vast disparity between the pharmacy's actual inventory of  
2 certain controlled substances and the legally documented inventory that should have been present.  
3 Specifically, the records demonstrated that Crown Valley was short in its inventory of oxycodone  
4 30 mg by 3,666 pills, short in its inventory of oxycodone 10 mg by 326 pills, and short in its  
5 inventory of promethazine with codeine by 63 bottles (i.e. approximately 30,000 ml). Moreover,  
6 the records revealed that Crown Valley Pharmacy also could not account for the presence of  
7 massive amounts of other controlled substances in its inventory. For example, Crown Valley's  
8 inventory included 5,196 oxycodone/apap 5-325 mg pills for which there were no acquisition  
9 records, 22,579 oxycodone/apap 10-325 mg pills for which there were no acquisition records,  
10 1,233 oxycodone 5 mg pills for which there were no acquisition records, 433 oxycodone/apap  
11 7.5-325 mg pills for which there were no acquisition records, 148 oxycodone 20 mg pills for  
12 which there were no acquisition records, and 34 oxycodone 15 mg pills for which there were no  
13 acquisition records.

14 35. The inspector's analysis of the records also revealed multiple discrepancies between  
15 the quantities of oxycodone and oxycodone/apap dispensed pursuant to actual prescriptions  
16 versus the quantity dispensed pursuant to the pharmacy's dispensing records and the number of  
17 prescriptions and quantity dispensed as reported to CURES. In addition, Crown Valley Pharmacy  
18 could not produce the original prescriptions for six (6) purported prescriptions of oxycodone and  
19 oxycodone/apap that it had filled and fifteen (15) purported prescriptions of promethazine with  
20 codeine, indicating that the pharmacy had dispensed the drugs without prescriptions.

#### 21 FIRST CAUSE FOR DISCIPLINE

##### 22 (Unprofessional Conduct)

23 36. Respondents Crown Valley Pharmacy, Chowdhury, Henderson, and Zandberg, are  
24 subject to disciplinary action under section 4301 in that Respondents engaged in unprofessional  
25 conduct. Complainant refers to, and by this reference incorporates, the allegations set forth above  
26 in paragraphs 28 through 35, inclusive, as though set forth fully herein.

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Violation of Pharmacy Law: Acquisition & Disposition Records)**

3 37. Respondents Crown Valley Pharmacy, Chowdhury, Henderson, and Zandberg are  
4 subject to disciplinary action under section 4301, subdivision (o), in conjunction with section  
5 4081 and section 4105 in that Respondents failed to maintain acquisition, sale and/or disposition  
6 records related to thousands of oxycodone and oxycodone/apap pills as well as dozens of bottles  
7 of promethazine with codeine. Complainant refers to, and by this reference incorporates, the  
8 allegations set forth above in paragraphs 28 through 35, inclusive, as though set forth fully herein.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Violation of Pharmacy Law: Operational Standards)**

11 38. Respondents Crown Valley Pharmacy, Chowdhury, Henderson, and Zandberg are  
12 subject to disciplinary action under section 4301, subdivision (o), in conjunction with section  
13 California Code of Regulations, title 16, section 1714, in that Respondents failed maintain Crown  
14 Valley Pharmacy's facilities, space, fixtures, and equipment such that drugs were safely and  
15 properly maintained, secured and distributed as evidenced by the vast discrepancies between its  
16 in-stock inventory and the inventory denoted by its acquisition and dispensing records.  
17 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
18 paragraphs 28 through 35, inclusive, as though set forth fully herein.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Violation of Pharmacy Law: Original Prescriptions)**

21 39. Respondents Crown Valley Pharmacy, Chowdhury, Henderson, and Zandberg are  
22 subject to disciplinary action under section 4301, subdivision (o), in conjunction with section  
23 4333 in that Respondents failed to maintain the original prescriptions for seven (7) purported  
24 prescriptions of oxycodone and oxycodone/apap and seventeen (17) purported prescriptions of  
25 promethazine with codeine that it filled. Complainant refers to, and by this reference  
26 incorporates, the allegations set forth above in paragraphs 28 through 35, inclusive, as though set  
27 forth fully herein.

28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Misconduct by Owner and/or Persons with Management or Control)**

3 40. Respondent Crown Valley Pharmacy is subject to disciplinary action under section  
4 4302 in that grounds for disciplinary action exist with respect to a person holding 10 percent or  
5 more of the ownership interest in the pharmacy and/or a person with management or control of  
6 the pharmacy. Complainant refers to, and by this reference incorporates, the allegations set forth  
7 above in paragraphs 28 through 35, inclusive, as though set forth fully herein.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Violation Drug Law: Controlled Substance Prescriptions)**

10 41. Respondents Crown Valley Pharmacy, Chowdhury, Henderson, and Zandberg are  
11 subject to disciplinary action under section 4301, subdivision (j), in conjunction with Health and  
12 Safety Code section 11205 and section 11179 in that Respondents failed to maintain the original  
13 prescriptions for seven (7) purported prescriptions of oxycodone and oxycodone/apap and  
14 seventeen (17) purported prescriptions of promethazine with codeine that it filled. Complainant  
15 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 28  
16 through 35, inclusive, as though set forth fully herein.

17 **SEVENTH CAUSE FOR DISCIPLINE**

18 **(Violation of Drug Law: Dispensing Controlled Substances Without a Prescription)**

19 42. Respondents Crown Valley Pharmacy, Chowdhury, Henderson, and Zandberg are  
20 subject to disciplinary action under section 4301, subdivision (j), in conjunction with California  
21 Health and Safety Code section 11164 and U.S. Code, title 21, section 829, in that Respondents  
22 dispensed oxycodone, oxycodone/apap and promethazine with codeine to patients without a  
23 prescription. Complainant refers to, and by this reference incorporates, the allegations set forth  
24 above in paragraphs 28 through 35, inclusive, as though set forth fully herein.

25 **EIGHTH CAUSE FOR DISCIPLINE**

26 **(Violation of Drug Law: Failure to Report to CURES)**

27 43. Respondents Crown Valley Pharmacy, Chowdhury, Henderson, and Zandberg are  
28 subject to disciplinary action under section 4301, subdivision (j), in conjunction with California



1 Health and Safety Code section 11165, in that Respondents failed to report information to the  
2 Department of Justice regarding Crown Valley Pharmacy's dispensing of Schedule II controlled  
3 substances as required by state and federal law. Complainant refers to, and by this reference  
4 incorporates, the allegations set forth above in paragraphs 28 through 35, inclusive, as though set  
5 forth fully herein.

6 **NINTH CAUSE FOR DISCIPLINE**

7 **(Violation of Drug Law: Controlled Substance Inventories)**

8 44. Respondents Crown Valley Pharmacy, Chowdhury, Henderson, and Zandberg are  
9 subject to disciplinary action under section 4301, subdivision (j), in conjunction with Code of  
10 Federal Regulations, title 21, section 1304.11, in that Respondents failed to maintain separate  
11 inventory records for its Schedule II controlled substances as required under federal law.  
12 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
13 paragraphs 28 through 35, inclusive, as though set forth fully herein.

14 **DISCIPLINARY CONSIDERATIONS**

15 45. To determine the degree of discipline, if any, to be imposed on Respondent  
16 Henderson, Complainant alleges:

17 46. In the disciplinary action entitled *In the Matter of the Accusation Against Willon*  
18 *Allen Henderson*, Case No. 2646 (OAH No. 2004050317), effective March 6, 2005, Respondent  
19 Henderson's pharmacist license was placed on probation for a period of three (3) years for  
20 various violations of the California Pharmacy Law.

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacy Permit Number PHY 51552 issued to Crown  
25 Valley Pharmacy; Jenisa Nusrat Chowdhury and Willon Allen Henderson, owners.

26 2. Revoking or suspending Pharmacist Intern Registration Number INT 35196, issued to  
27 Jenisa Nusrat Chowdhury;

28 ///

1           3.    Revoking or suspending Pharmacist License Number RPH 29129 issued to Willon  
2 Allen Henderson, Jr.;

3           4.    Revoking or suspending Pharmacist License Number RPH 22274 issued to Charles  
4 M. Zandberg;

5           5.    Prohibiting Crown Valley Pharmacy; Jenisa Nusrat Chowdhury and Willon Allen  
6 Henderson, owners, from serving as a manager, administrator, owner, member, officer, director,  
7 associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 51552, issued  
8 to Crown Valley Pharmacy; Jenisa Nusrat Chowdhury and Willon Allen Henderson, owners, is  
9 placed on probation or until Pharmacy Permit Number PHY 51552 is reinstated if Pharmacy  
10 Permit Number PHY 51552 is revoked;

11          6.    Prohibiting Jenisa Chowdhury from serving as a manager, administrator, owner,  
12 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
13 Number PHY 51552, issued to Crown Valley Pharmacy; Jenisa Nusrat Chowdhury and Willon  
14 Allen Henderson, owners, is placed on probation or until Pharmacy Permit Number PHY 51552  
15 is reinstated if Pharmacy Permit Number PHY 51552 is revoked;

16          7.    Prohibiting Willon Allen Henderson, Jr., Inc. from serving as a manager,  
17 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if  
18 Pharmacy Permit Number PHY 51552, issued to Crown Valley Pharmacy; Jenisa Nusrat  
19 Chowdhury and Willon Allen Henderson, owners, is placed on probation or until Pharmacy  
20 Permit Number PHY 51552 is reinstated if Pharmacy Permit Number PHY 51552 is revoked;

21          8.    Prohibiting Charles M. Zandberg from serving as a manager, administrator, owner,  
22 member, officer, director, associate, or partner of a licensee for five years if Pharmacy  
23 Permit Number PHY 51552, issued to Crown Valley Pharmacy; Jenisa Nusrat Chowdhury and  
24 Willon Allen Henderson, owners, is placed on probation or until Pharmacy Permit Number PHY  
25 51552 is reinstated if Pharmacy Permit Number PHY 51552 is revoked;

26          9.    Ordering that Crown Valley Pharmacy, Jenisa Nusrat Chowdhury, Willon Allen  
27 Henderson, Jr., and Charles M. Zandberg are jointly and severally obligated to pay reasonable

28 ///

1 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
2 Code section 125.3; and

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

4 DATED: 11/11/17



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

8 LA2017603571  
9 52546642.docx

26  
27  
28  
SEAL 150 11/11/17