

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

In the Matter of the Accusation Against:

**FAIR OAKS PHARMACY CORP., dba
FAIR OAKS PHARMACY & SODA FOUNTAIN;
ZAHRA CHAHICHI-SHAHNIANI PHARMACIST-IN-CHARGE,
Original Pharmacy Permit No. PHY 47187;**

and

**ZAHRA CHAHICHI-SHAHNIANI,
Original Pharmacist License No. RPH 46003,**

Respondents.

Agency Case No. 6581

OAH NO. 2021010258

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter. This Decision shall become effective at 5:00 p.m. on November 10, 2021. It is so ORDERED on October 11, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
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6 *Attorneys for Complainant*

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

11
12 In the Matter of the Accusation Against:

Case No. 6581

13 **FAIR OAKS PHARMACY CORP., dba**
14 **FAIR OAKS PHARMACY & SODA**
FOUNTAIN; ZAHRA CHAHICHI-
15 **SHAHNIANI PHARMACIST-IN-CHARGE**
1526 Mission Street
South Pasadena, CA 91030

OAH No. 2021010258

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 **Pharmacy Permit No. PHY 47187,**

17 **and**

18 **ZAHRA CHAHICHI-SHAHNIANI**
19 **2219 Lenore Drive**
Glendale, CA 91206

20 **Pharmacist License No. RPH 46003**

21 Respondents.
22

23
24 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
25 entitled proceedings that the following matters are true:

26 **PARTIES**

27 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
28 (Board), Department of Consumer Affairs. She brought this action solely in her official capacity

1 and is represented in this matter by Rob Bonta, Attorney General of the State of California, by
2 Andrew M. Steinheimer, Supervising Deputy Attorney General.

3 2. Respondent Fair Oaks Pharmacy Corp., dba Fair Oaks Pharmacy & Soda Fountain
4 (Respondent Fair Oaks) and Respondent Zahra Chahichi-Shahniani (Respondent Chahichi-
5 Shahniani) are represented in this proceeding by attorney Herbert L. Weinberg, Esq., whose
6 address is: 1990 South Bundy Drive, Suite 777, Los Angeles, CA 90025.

7 3. On or about October 19, 2005, the Board issued Pharmacy Permit No. PHY 47187 to
8 Respondent Fair Oaks. The Pharmacy Permit was in full force and effect at all times relevant to
9 the charges brought in Accusation No. 6581, and will expire on October 1, 2021, unless renewed.

10 4. On or about March 18, 1993, the Board issued Pharmacist License Number RPH
11 46003 to Respondent Chahichi-Shahniani. The Pharmacist License was in full force and effect at
12 all times relevant to the charges brought herein and will expire on October 31, 2022, unless
13 renewed. Respondent Chahichi-Shahniani is the owner of Fair Oaks Pharmacy & Soda Fountain
14 and was the Pharmacist-In-Charge during all relevant times.

15 **JURISDICTION**

16 5. Accusation No. 6581 was filed before the Board, and is currently pending against
17 Respondents. The Accusation and all other statutorily required documents were properly served
18 on Respondents on August 14, 2020. Respondents timely filed their Notice of Defense contesting
19 the Accusation.

20 6. A copy of Accusation No. 6581 is attached as exhibit A and incorporated herein by
21 reference.

22 **ADVISEMENT AND WAIVERS**

23 7. Respondents have carefully read, fully discussed with counsel, and understands the
24 charges and allegations in Accusation No. 6581. Respondents have also carefully read, fully
25 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary
26 Order.

27 8. Respondents are fully aware of their legal rights in this matter, including the right to a
28 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine

1 the witnesses against them; the right to present evidence and to testify on their own behalf; the
2 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents; the right to reconsideration and court review of an adverse decision; and all other
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

5 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
6 every right set forth above.

7 **CULPABILITY**

8 10. Respondents understand and agree that the charges and allegations in Accusation No.
9 6581, if proven at a hearing, constitute cause for imposing discipline upon their Pharmacy Permit
10 and Pharmacist License.

11 11. For the purpose of resolving the Accusation without the expense and uncertainty of
12 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual
13 basis for the charges in the Accusation, and that Respondent hereby gives up its right to contest
14 those charges and that in any future proceeding between the Board and Respondents, the
15 allegations in the Accusation will be deemed admitted.

16 12. Respondents agree that their Pharmacy Permit and Pharmacy License are subject to
17 discipline and they agree to be bound by the Board's probationary terms as set forth in the
18 Disciplinary Order below.

19 **CONTINGENCY**

20 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
21 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
22 communicate directly with the Board regarding this stipulation and settlement, without notice to
23 or participation by Respondents or their counsel. By signing the stipulation, Respondents
24 understand and agree that they may not withdraw their agreement or seek to rescind the
25 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
26 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
27 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
28 the parties, and the Board shall not be disqualified from further action by having considered this

1 matter.

2 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
3 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
4 signatures thereto, shall have the same force and effect as the originals.

5 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
6 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
7 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
8 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
9 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
10 writing executed by an authorized representative of each of the parties.

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

14 **DISCIPLINARY ORDER**

15 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 47187 issued to Respondent
16 Fair Oaks Pharmacy Corp., dba Fair Oaks Pharmacy & Soda Fountain shall be publicly reprovod
17 by the Board of Pharmacy under Business and Professions Code section 495 in resolution of
18 Accusation No. 6581, attached as exhibit A.

19 **Cost Recovery.** No later than three years from the effective date of the Decision,
20 Respondent Fair Oaks shall pay \$20,000 to the Board for its costs associated with the
21 investigation and enforcement of this matter pursuant to Business and Professions Code Section
22 125.3. These costs are duplicative of the costs identified below and are owed jointly and
23 severally by Respondent Fair Oaks and Respondent Chahichi-Shahniani. Satisfaction of the costs
24 by either respondent constitutes compliance with the cost recovery requirement by both
25 Respondents. If Respondents fail to pay the Board costs as ordered, Respondents shall not be
26 allowed to renew their Pharmacy Permit and Pharmacist License until costs are paid in full. In
27 addition, the Board may enforce this order for payment of its costs in any appropriate court, in
28 addition to any other rights the Board may have.

1 **No New Ownership or Management of Licensed Premises.** Respondent shall not
2 acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator,
3 member, officer, director, trustee, associate, or partner of any additional business, firm,
4 partnership, or corporation licensed by the board. If respondent currently owns or has any legal
5 or beneficial interest in, or serves as a manager, administrator, member, officer, director, trustee,
6 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
7 licensed by the board, respondent may continue to serve in such capacity or hold that interest, but
8 only to the extent of that position or interest as of the effective date of this decision. Violation of
9 this restriction shall be considered a violation of probation.

10 **Full Compliance.** As a resolution of the charges in Accusation No. 6581, this stipulated
11 settlement is contingent upon Respondent's full compliance with all conditions of this Order. If
12 Respondent fails to satisfy any of these conditions, such failure to comply constitutes cause for
13 discipline, including outright revocation, of Respondent's Pharmacy Permit No. PHY 47187.

14 IT IS HEREBY FURTHER ORDERED that Pharmacist License Number RPH 46003
15 issued to Respondent Zahra Chahichi-Shahniani is revoked. However, the revocation is stayed
16 and Respondent Chahichi-Shahniani is placed on probation for three (3) years on the following
17 terms and conditions:

18 1. **Obey All Laws**

19 Respondent shall obey all state and federal laws and regulations.

20 Respondent shall report any of the following occurrences to the board, in writing, within
21 seventy- two (72) hours of such occurrence:

- 22 • an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
24 substances laws
 - 25 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
26 criminal proceeding to any criminal complaint, information or indictment
 - 27 • a conviction of any crime
- 28

- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

2. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent shall timely cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of probation, including but not limited to: timely responses to requests for information by board staff; timely compliance with directives from board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition

of probation. Failure to timely cooperate shall be considered a violation of probation.

5. Continuing Education

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board or its designee.

6. Reporting of Employment and Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 6581 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within ten (10) days of undertaking any new employment, respondent shall report to the board in writing the name, physical address, and mailing address of each of respondent's employer(s), and the name(s) and telephone number(s) of all of respondent's direct supervisor(s), as well as any pharmacist(s)-in-charge, designated representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for leaving the prior employment. Respondent shall sign and return to the board a written consent authorizing the board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board or its designee, concerning respondent's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause (a) respondent's direct supervisor, (b) respondent's pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of respondent's employer, to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 6581, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these

1 acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s)
2 serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause
3 the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of
4 the change acknowledging that he or she has read the decision in case number 6581, and the
5 terms and conditions imposed thereby.

6 If respondent works for or is employed by or through an employment service, respondent
7 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
8 of the decision in case number 6581, and the terms and conditions imposed thereby in advance of
9 respondent commencing work at such licensed entity. A record of this notification must be
10 provided to the board upon request.

11 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
12 (15) days of respondent undertaking any new employment by or through an employment service,
13 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service
14 to report to the board in writing acknowledging that he or she has read the decision in case
15 number, and the terms and conditions imposed thereby. It shall be respondent's responsibility to
16 ensure that these acknowledgment(s) are timely submitted to the board.

17 Failure to timely notify present or prospective employer(s) or failure to cause the identified
18 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
19 shall be considered a violation of probation.

20 "Employment" within the meaning of this provision includes any full-time, part-time,
21 temporary, relief, or employment/management service position as a Pharmacist, or any position
22 for which a Pharmacist is a requirement or criterion for employment, whether the respondent is an
23 employee, independent contractor or volunteer.

24 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

25 Respondent shall further notify the board in writing within ten (10) days of any change in
26 name, residence address, mailing address, e-mail address or phone number.

27 Failure to timely notify the board of any change in employer, name, address, or phone
28 number shall be considered a violation of probation.

1 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

2 During the period of probation, respondent shall not supervise any intern pharmacist or
3 serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-
4 charge, designated representative-in-charge, responsible manager or other compliance supervisor
5 of any single entity licensed by the board, but only if respondent or that entity retains, at their
6 expense, an independent consultant who shall be responsible for reviewing the operations of the
7 entity on a quarterly basis for compliance by respondent and the entity with state and federal laws
8 and regulations governing the practice of the entity, and compliance by respondent with the
9 obligations of her supervisory position. Respondent may serve in such a position at only one
10 entity licensed by the board, only upon approval by the board or its designee. Any such approval
11 shall be site specific. The consultant shall be a pharmacist licensed by and not on probation with
12 the board, who has been approved by the board or its designee to serve in this position.
13 Respondent shall submit the name of the proposed consultant to the board or its designee for
14 approval within thirty (30) days of the effective date of the decision or prior to assumption of
15 duties allowed in this term. Assumption of any unauthorized supervision responsibilities shall be
16 considered a violation of probation. In addition, failure to timely seek approval for, timely retain,
17 or ensure timely reporting by the consultant shall be considered a violation of probation.

18 **9. Reimbursement of Board Costs**

19 As a condition precedent to successful completion of probation, respondent shall pay to the
20 board its costs of investigation and prosecution in the amount of \$20,000.00.

21 Respondent shall be permitted to pay these costs in a payment plan approved by the board
22 or its designee, so long as full payment is completed no later than one (1) year prior to the end
23 date of probation. Failure to pay costs by the deadline(s) as directed shall be considered a
24 violation of probation.

25 **10. Probation Monitoring Costs**

26 Respondent shall pay any costs associated with probation monitoring as determined by the
27 board each and every year of probation. Such costs shall be payable to the board on a schedule as
28 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall

1 be considered a violation of probation.

2 **11. Status of License**

3 Respondent shall, at all times while on probation, maintain an active, current Pharmacist
4 License with the board, including any period during which suspension or probation is tolled.
5 Failure to maintain an active, current Pharmacist License shall be considered a violation of
6 probation.

7 If respondent's Pharmacist License expires or is cancelled by operation of law or otherwise
8 at any time during the period of probation, including any extensions thereof due to tolling or
9 otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and
10 conditions of this probation not previously satisfied.

11 **12. License Surrender While on Probation/Suspension**

12 Following the effective date of this decision, should respondent cease practice due to
13 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
14 respondent may relinquish respondent's license, including any indicia of licensure issued by the
15 board, along with a request to surrender the license. The board or its designee shall have the
16 discretion whether to accept the surrender or take any other action it deems appropriate and
17 reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be
18 subject to the terms and conditions of probation. This surrender constitutes a record of discipline
19 and shall become a part of the respondent's license history with the board.

20 Upon acceptance of the surrender, respondent shall relinquish respondent's pocket and/or
21 wall license, including any indicia of licensure not previously provided to the board within ten
22 (10) days of notification by the board that the surrender is accepted if not already provided.
23 Respondent may not reapply for any license from the board for three (3) years from the effective
24 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
25 of the date the application for that license is submitted to the board, including any outstanding
26 costs.

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1 **13. Practice Requirement – Extension of Probation**

2 Except during periods of suspension, respondent shall, at all times while on probation, be
3 employed as a Pharmacist in California for a minimum of 80 hours per calendar month. Any
4 month during which this minimum is not met shall extend the period of probation by one month.
5 During any such period of insufficient employment, respondent must nonetheless comply with all
6 terms and conditions of probation, unless respondent receives a waiver in writing from the board
7 or its designee.

8 If respondent does not practice as a Pharmacist in California for the minimum number of
9 hours in any calendar month, for any reason (including vacation), respondent shall notify the
10 board in writing within ten (10) days of the conclusion of that calendar month. This notification
11 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
12 interruption or reduction in practice; and the anticipated date(s) on which respondent will resume
13 practice at the required level. Respondent shall further notify the board in writing within ten (10)
14 days following the next calendar month during which respondent practices as a Pharmacist in
15 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
16 considered a violation of probation.

17 It is a violation of probation for respondent's probation to be extended pursuant to the
18 provisions of this condition for a total period, counting consecutive and non-consecutive months,
19 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
20 probation period on its website.

21 **14. Violation of Probation**

22 If respondent has not complied with any term or condition of probation, the board shall
23 have continuing jurisdiction over respondent, and the board shall provide notice to respondent
24 that probation shall automatically be extended, until all terms and conditions have been satisfied
25 or the board has taken other action as deemed appropriate to treat the failure to comply as a
26 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
27 board or its designee may post a notice of the extended probation period on its website.

28 If respondent violates probation in any respect, the board, after giving respondent notice

1 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
2 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
3 probation, or the preparation of an accusation or petition to revoke probation is requested from
4 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
5 probation shall be automatically extended until the petition to revoke probation or accusation is
6 heard and decided, and the charges and allegations in the Accusation No. 6581 shall be deemed
7 true and correct.

8 **15. Completion of Probation**

9 Upon written notice by the board or its designee indicating successful completion of
10 probation, respondent's license will be fully restored.

11 **16. Remedial Education**

12 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
13 board or its designee, for prior approval, an appropriate program of remedial education. The
14 program must include 10 hours per year of probation and include classes in pharmacy law,
15 controlled substances, the opioid crisis, security and regulatory compliance. At least 50% of the
16 course work must be in-person and/or live webinar. All remedial education shall be in addition
17 to, and shall not be credited toward, continuing education (CE) courses used for license renewal
18 purposes for pharmacists.

19 Failure to timely submit for approval or complete the approved remedial education shall be
20 considered a violation of probation. The period of probation will be automatically extended until
21 such remedial education is successfully completed and written proof, in a form acceptable to the
22 board, is provided to the board or its designee.

23 Following the completion of each course, the board or its designee may require the
24 respondent, at her own expense, to take an approved examination to test the respondent's
25 knowledge of the course. If the respondent does not achieve a passing score on the examination
26 that course shall not count towards satisfaction of this term. Respondent shall take another course
27 approved by the board in the same subject area.

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1 **17. Ethics Course**

2 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
3 in a course in ethics, at respondent's expense, approved in advance by the board or its designee
4 that complies with Title 16 California Code of Regulations section 1773.5. Respondent shall
5 provide proof of enrollment upon request. Within five (5) days of completion, respondent shall
6 submit a copy of the certificate of completion to the board or its designee. Failure to timely enroll
7 in an approved ethics course, to initiate the course during the first year of probation, to
8 successfully complete it before the end of the second year of probation, or to timely submit proof
9 of completion to the board or its designee, shall be considered a violation of probation.

10 **18. Board's One-Day Training Program**

11 Within the first year of probation, respondent shall enroll in the board's one-day, six (6)
12 hour, training program, "*Preventing Prescription Drug Abuse and Drug Diversion*," at
13 respondent's expense. Respondent shall provide proof of enrollment upon request. Within thirty
14 (30) days of completion, respondent shall submit a copy of the certificate of completion to the
15 board or its designee. Failure to timely enroll in the training program, to initiate the training
16 program during the first year of probation, to successfully complete it before the end of the
17 second year of probation, or to timely submit proof of completion to the board or its designee,
18 shall be considered a violation of probation.

19 **19. No New Ownership or Management of Licensed Premises**

20 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
21 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
22 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
23 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
24 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
25 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
26 that interest, but only to the extent of that position or interest as of the effective date of this
27 decision. Violation of this restriction shall be considered a violation of probation.

28 //

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert L. Weinberg, Esq. I understand the stipulation and the effect it will have on my Pharmacy Permit and Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

ZAHRA CHAHICHI-SHAHNIANI individually and as
owner of FAIR OAKS PHARMACY CORP., DBA
FAIR OAKS PHARMACY & SODA FOUNTAIN
Respondent

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

DATED: _____

HERBERT L. WEINBERG, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California


ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
Attorneys for Complainant

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert L. Weinberg, Esq. I understand the stipulation and the effect it will have on my Pharmacy Permit and Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

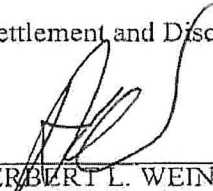
8-13-2021


ZAHRA CHAHICHI-SHAHNIANI individually and as
owner of FAIR OAKS PHARMACY CORP., DBA
FAIR OAKS PHARMACY & SODA FOUNTAIN
Respondent

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

DATED:

8/13/2021


HERBERT L. WEINBERG, ESQ.
Attorney for Respondent

ENDORSEMENT

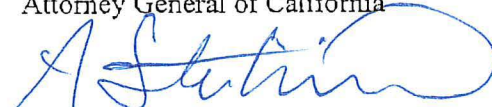
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DATED:

8/13/2021

Respectfully submitted,

ROB BONTA
Attorney General of California


ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6581

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2 DAVID E. BRICE
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3 ANDREW M. STEINHEIMER
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7 *Attorneys for Complainant*

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16 **FOUNTAIN; ZAHRA CHAHICHI-**
17 **SHAHNIANI PHARMACIST-IN-CHARGE**
18 **1526 Mission Street**
19 **South Pasadena, CA 91030**

ACCUSATION

20 **Pharmacy Permit No. PHY 47187,**

21 **and**

22 **ZAHRA CHAHICHI-SHAHNIANI**
23 **2219 Lenore Drive**
24 **Glendale, CA 91206**

25 **Pharmacist License No. RPH 46003**

26 Respondents.

27 Complainant alleges:

28 **PARTIES**

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

2. On or about October 19, 2005, the Board issued Pharmacy Permit Number PHY 47187 to Fair Oaks Pharmacy Corp., dba Fair Oaks Pharmacy & Soda Fountain (Respondent Fair Oaks). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on October 1, 2020, unless renewed.

3. On or about March 18, 1993, the Board issued Pharmacist License Number RPH 46003 to Zahra Chahichi-Shahniani (Respondent Chahichi-Shahniani). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2020, unless renewed. Respondent Chahichi-Shahniani is the owner of Fair Oaks Pharmacy & Soda Fountain and was the Pharmacist-In-Charge (PIC) during all relevant times.

JURISDICTION

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

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

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

6. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a 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.

1 7. Section 4307 of the Code states:

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

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

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

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

24 (c) The provisions of subdivision (a) may be alleged in any pleading filed
25 pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
26 the Government Code. However, no order may be issued in that case except as to a
27 person who is named in the caption, as to whom the pleading alleges the
28 applicability of this section, and where the person has been given notice of the
29 proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of
30 Division 3 of the Government Code. The authority to proceed as provided by this
31 subdivision shall be in addition to the board's authority to proceed under Section
32 4339 or any other provision of law.

33 **STATUTORY AND REGULATORY PROVISIONS**

34 8. Section 4301 of the Code states, in pertinent part:

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

38

39 ///

(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 by any other state or federal regulatory agency

9. Section 4039 of the Code states:

“Physicians,” “dentists,” “optometrists,” “pharmacists,” “podiatrists,” “veterinarians,” “veterinary surgeons,” “registered nurses,” “naturopathic doctors,” and “physician’s assistants” are persons authorized by a currently valid and unrevoked license to practice their respective professions in this state. “Physician” means and includes any person holding a valid and unrevoked physician’s and surgeon’s certificate or certificate to practice medicine and surgery, issued by the Medical Board of California or the Osteopathic Medical Board of California, and includes an unlicensed person lawfully practicing medicine pursuant to Section 2065 , when acting within the scope of that section.

10. Section 4040, subdivision (a)(2), of the Code states:

“Prescription” means an oral, written, or electronic transmission order that is both of the following:

...

(2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant o Section 3640.7 or, If a drug order is issued pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor, licensed in this state, or pursuant to Section 4052.1, 4052.2, or 4052.6 by a pharmacist licensed in this state.

11. Section 4081, subdivision (a), of the Code states:

All records of manufacture and of sale, acquisition, or disposition of 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 least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

12. Section 4101, subdivision (a), of the Code states:

A pharmacist may take charge of and act as the pharmacist-in-charge of a pharmacy upon application by the pharmacy and approval by the board. A

pharmacist-in-charge who ceases to act as the pharmacist-in-charge of the pharmacy shall notify the board in writing within 30 days of the date of that change in status.

13. Section 4113, subdivision (c), of the Code states that “[t]he 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.”

14. Section 4306.5 of the Code states, in pertinent part:

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 judgement 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 omission that involve, in whole or in party, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

(d) Acts or omissions that involve, in whole or in party, the failure to fully maintain and retain appropriate patient-specific information pertaining to the performance of any pharmacy function.

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. Title 16, California Code of Regulations (CCR), section 1707.1 states:

(a) A pharmacy shall maintain medication profiles on all patients who have prescriptions filled in that pharmacy except when the pharmacist has reasonable belief that the patient will not continue to obtain prescription medications from that pharmacy.

(1) A patient medication record shall be maintained in an automated data processing or manual record mode such that the following information is readily retrievable during the pharmacy's normal operating hours.

(A) The patient's full name and address, telephone number, date of birth (or age) and gender;

(B) For each prescription dispensed by the pharmacy:

1. The name, strength, dosage form, route of administration, if other than oral, quantity and directions for use of any drug dispensed;

2. The prescriber's name and where appropriate, license number, DEA registration number or other unique identifier;

3. The date on which a drug was dispensed or refilled;

4. The prescription number for each prescription; and

5. The information required by section 1717.

(C) Any of the following which may relate to drug therapy: patient allergies, idiosyncrasies, current medications and relevant prior medications including nonprescription medications and relevant devices, or medical conditions which are communicated by the patient or the patient's agent.

(D) Any other information which the pharmacist, in his or her professional judgment, deems appropriate.

(2) The patient medication record shall be maintained for at least one year from the date when the last prescription was filled.

17. Title 16, CCR, section 1761 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

18. Section 125.3 of the Code provides, in pertinent part, that a Board may request the administrative law judge to direct a licensee 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.

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1 **DEFINITIONS**

2 19. Butalbital/APAP/Caffeine is a Schedule III controlled substance as designated by
3 Health and Safety Code section 11056, subdivision (c)(3), and is a dangerous drug pursuant to
4 Code section 4022. Butalbital/APAP/Caffeine is used to treat pain.

5 20. Gabapentin, is a dangerous drug pursuant to Code section 4022. It is indicated for,
6 among other things, post herpetic neuralgia. Common possible side effects include somnolence,
7 sedation and dizziness.

8 **FACTUAL ALLEGATIONS**

9 21. During a routine inspection of Fair Oaks Pharmacy and Soda Fountain, a Board
10 inspector discovered that Respondents dispensed and shipped medications to patients in
11 California written by prescribers unlicensed by the State of California. Additionally, a review of
12 the prescriptions for patients in California and Florida disclosed many discrepancies indicating
13 that the prescriptions were fraudulent. Specifically:

14 a. As of November 8, 2017, Respondents furnished approximately 78
15 prescriptions for Butalbital/APAP/Caffeine to patients in California written by Dr. O.A.
16 Aghaegbuna in September and October 2017. Dr. Aghaegbuna is not licensed to practice
17 medicine or prescribe medication in California and his Florida medical license is revoked.

18 b. As of November 8, 2017, Respondents furnished approximately 27
19 prescriptions for Butalbital/APAP/Caffeine and two prescriptions for Gabapentin to California
20 patients written by Dr. S. Washington in September and October 2017. At the time of the
21 investigation, Dr. Washington's California medical license was delinquent and had expired on
22 October 31, 2014.

23 c. Approximately 66 of the prescriptions written by Dr. Aghaegbuna for patients
24 in California and Florida had the same date of birth (09-08-1965).

25 d. Approximately nine of the prescriptions written by Dr. Washington for
26 California patients had the same date of birth (06-06-1965).

27 e. Approximately 62 of the prescriptions written by Dr. Aghaegbuna for patients
28 in California and Florida had the same invalid area code (654).

1 f. Approximately 32 of the prescriptions written by Dr. Aghaegbuna for patients
2 in California and Florida had the same California area code (657).

3 g. Approximately 26 of the prescriptions written by Dr. Washington for patients in
4 California and Florida had the same Idaho area code (986).

5 **RESPONDENT FAIR OAKS**

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Prescriptions Written By Invalid Prescriber – Respondent Fair Oaks)

8 22. Respondent Fair Oaks is subject to disciplinary action pursuant to Code sections
9 4301, subdivisions (j) and (o), and 4306.5, subdivision (c), and California Code of Regulations
10 section 1761, subdivision (a), for unprofessional conduct in that Respondent Fair Oaks dispensed
11 controlled and non-controlled substances (Gabapentin) based on prescriptions written by doctors
12 without valid California medical licenses as described above in paragraphs 20 (a) and (b).

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Failure to Exercise Corresponding Responsibility – Respondent Fair Oaks)

15 23. Respondent Fair Oaks is subject to disciplinary action pursuant to Code section 4301,
16 subdivision (j) and (o) and 4306.5, subdivision (c), and California Code of Regulations section
17 1761, subdivision (a), for unprofessional conduct in that Respondents dispensed controlled
18 substances to patients without ensuring the prescriptions were legitimate and that the patient
19 information was correct as set forth above in paragraphs 20 (c) – (g).

20 **RESPONDENT CHAHICHI-SHAHNIANI**

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Prescriptions Written By Invalid Prescriber – Respondent Chahichi-Shahniani)

23 24. Respondent Chahichi-Shahniani is subject to disciplinary action pursuant to Code
24 section 4301, subdivision (j) and (o) and 4306.5, subdivision (c), and California Code of
25 Regulations section 1761, subdivision (a), for unprofessional conduct in that Respondent Fair
26 Oaks dispensed controlled and non-controlled substances (Gabapentin) based on prescriptions
27 written by doctors without valid California medical licenses as described above in paragraph 20
28 (a) and (b).

1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Failure to Exercise Corresponding Responsibility – Respondent Chahichi-Shahniani)

3 25. Respondent Chahichi-Shahniani is subject to disciplinary action pursuant to Code
4 section 4301, subdivision (j) and (o) and 4306.5, subdivision (c), and California Code of
5 Regulations section 1761, subdivision (a), for unprofessional conduct in that Respondents
6 dispensed controlled substances to patients without ensuring the prescriptions were legitimate and
7 that the patient information was correct as set forth above in paragraphs 20 (c) – (g).

8 **OTHER MATTERS**

9 26. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
10 PHY 47187 issued to Fair Oaks Pharmacy Corp., dba Fair Oaks Pharmacy & Soda Fountain, Fair
11 Oaks Pharmacy Corp. shall be prohibited 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 47187 is placed on probation or until Pharmacy Permit Number PHY 47187 is
14 reinstated if it is revoked.

15 27. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
16 PHY 47187 issue to Fair Oaks Pharmacy Corp., dba Fair Oaks Pharmacy & Soda Fountain, while
17 Zahra Chahichi-Shahniani has been an owner, officer, or manager and had knowledge of or
18 knowingly participated in any conduct for which the licensee was disciplined, Zahra Chahichi-
19 Shahniani shall be prohibited from serving as a manager, administrator, owner, member, officer,
20 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 47187
21 is placed on probation or until Pharmacy Permit Number PHY 47187 is reinstated if it is revoked.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Permit Number PHY 47187, issued to Fair Oaks
26 Pharmacy Corp., dba Fair Oaks Pharmacy & Soda Fountain;

27 2. Revoking or suspending Pharmacist License Number RPH 46003, issued to Zahra
28 Chahichi-Shahniani;

1 3. Prohibiting Fair Oaks Pharmacy Corp. from serving as a manager, administrator,
2 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
3 Permit Number PHY 47187 is placed on probation or until Pharmacy Permit Number PHY 47187
4 is reinstated if Pharmacy Permit Number 47187 issued to Fair Oaks Pharmacy Corp. is revoked;

5 4. Prohibiting Zahra Chahichi-Shahniani from serving as a manager, administrator,
6 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
7 Permit Number PHY 47187 is placed on probation or until Pharmacy Permit Number PHY 47187
8 is reinstated if Pharmacy Permit Number 47187 issued to Fair Oaks Pharmacy Corp. is revoked;

9 5. Ordering Fair Oaks Pharmacy Corp., and Zahra Chahichi-Shahniani to pay the Board
10 of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
11 Business and Professions Code section 125.3; and,

12 6. Taking such other and further action as deemed necessary and proper.

13
14 DATED: August 5, 2020

Anne Sodergren

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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