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

12 In the Matter of the Accusation Against:

13 **VAN NUYS RX, INC.,**
14 **DBA VAN NUYS PHARMACY,**
15 **HAYK KARAPETYAN,**
16 **ALEX GOLDMEN**
6365 Van Nuys Blvd., Ste. A
Van Nuys, CA 91401

17 **Pharmacy Permit No. PHY 52545**

18 Respondent.

Case No. 6709

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

19
20 **FINDINGS OF FACT**

21 1. On or about December 20, 2020, Complainant Anne Sodergren, in her official
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
23 filed Accusation No. 6709 against Van Nuys Rx, Inc., dba Van Nuys Pharmacy, Hayk
24 Karapetyan, Alex Goldmen (Respondent) before the Board of Pharmacy. (Accusation attached as
25 Exhibit A.)

26 2. On or about February 9, 2015, the Board of Pharmacy (Board) issued Pharmacy
27 Permit No. PHY 52545 to Respondent. The Pharmacy Permit expired on September 29, 2016,
28 and has not been renewed.

1 3. On or about January 11, 2021, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 6709, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is: 6365 Van Nuys Blvd., Ste. A, Van Nuys, CA 91401.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505(c) and/or Business and Professions Code section 124.

9 5. Government Code section 11506(c) states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the respondent
11 files a notice of defense . . . and the notice shall be deemed a specific denial of all
12 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
13 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
14 discretion may nevertheless grant a hearing.

15 6. The Board takes official notice of its records and the fact that Respondent failed to
16 file a Notice of Defense within 15 days after service upon them of the Accusation, and therefore
17 waived their right to a hearing on the merits of Accusation No. 6709.

18 7. California Government Code section 11520(a) states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense . . . or to appear at
20 the hearing, the agency may take action based upon the respondent's express
21 admissions or upon other evidence and affidavits may be used as evidence without
22 any notice to respondent

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 6709,
28 finds that the charges and allegations in Accusation No. 6709, are separately and severally, found
to be true and correct by clear and convincing evidence.

 9. The Board finds that the actual costs for Investigation and Enforcement are
\$14,608.50.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Van Nuys Rx, Inc., dba Van
3 Nuys Pharmacy, Hayk Karapetyan, Alex Goldmen has subjected its Pharmacy Permit No. PHY
4 52545 to discipline.

5 2. The agency has jurisdiction to adjudicate this case by default.

6 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Permit based
7 upon the following violations alleged in the Accusation which are supported by the evidence
8 contained in the Default Decision Investigatory Evidence Packet in this case:

9 a. Business and Professions Code section 4301(j) and (o) – failure to maintain and
10 produce pharmacy records;

11 b. Business and Professions Code section 4301(j) and (o) – failure to provide requested
12 records; and

13 c. Business and Professions Code section 4301(q) – unprofessional conduct.

14 **ORDER**

15 IT IS SO ORDERED that Pharmacy Permit No. PHY 52545, issued to Respondent Van
16 Nuys Rx, Inc., dba Van Nuys Pharmacy, Hayk Karapetyan, Alex Goldmen, is revoked.

17 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
18 written motion requesting that the Decision be vacated and stating the grounds relied on within
19 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
20 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

21 This Decision shall become effective at 5:00 p.m. on April 28, 2021.

22 It is so ORDERED on March 29, 2021.

23 FOR THE BOARD OF PHARMACY
24 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

25 By



26
27 Greg Lippe
Board President

28 63974171.DOCX
DOJ Matter ID:LA2019501892

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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7

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

12 In the Matter of the Accusation Against:

Case No. 6709

13 **VAN NUYS RX, INC.,**
14 **DBA VAN NUYS PHARMACY,**
15 **HAYK KARAPETYAN, Owner/Officer**
16 **ALEX GOLDMEN, Owner/Officer**
17 **FRED R. STARTZ, RPH 20782, PIC**
18 **6365 Van Nuys Blvd., Ste. A**
19 **Van Nuys, CA 91401**

ACCUSATION

Pharmacy Permit No. PHY 52545

Respondent.

20
21 **PARTIES**

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

24 2. On or about February 9, 2015, the Board of Pharmacy issued Pharmacy Permit
25 Number PHY 52545 to Van Nuys Rx, Inc., dba Van Nuys Pharmacy (Respondent). From
26 February 9, 2015, through February 2, 2016, Hayk Karapetyan (Karapetyan) was the President
27 and sole shareholder of Respondent. From February 2, 2016, through August 27, 2016, Hayk
28 Karapetyan was the Secretary, Chief Financial Officer, and 51% shareholder of Respondent, and

Alex Goldmen (Goldmen) was the Chief Executive Officer, President, and 49% shareholder of Respondent. Fred R. Startz, RPH 20782 was the Pharmacist-in-Charge of Respondent from June 18, 2015, to August 27, 2016. The Pharmacy Permit was cancelled on September 29, 2016, due to Discontinuance of Business, effective August 27, 2016.

JURISDICTION

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

4. Section 4300 of the Code provides in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

5. 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.

STATUTORY PROVISIONS

6. Section 4022 of the Code states:

“Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in humans or animals, and includes the following:

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

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

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

7. Section 4301 of the Code states, in part:

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

...

(j) The violation of any of the statutes of this state, of 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.

...
(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.

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

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

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

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

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

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

1 9. Section 4081 of the Code states:

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

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

17 (c) The pharmacist-in-charge or representative-in-charge shall not be
18 criminally responsible for acts of the owner, officer, partner, or employee that
19 violate this section and of which the pharmacist-in-charge or representative-in-
20 charge had no knowledge, or in which he or she did not knowingly participate.

21 10. Section 4332 of the Code states, in pertinent part:

22 Any person who fails, neglects, or refuses to maintain the records required by
23 Section 4081 or who, when called upon by an authorized officer or a member of
24 the board, fails, neglects, or refuses to produce or provide the records within a
25 reasonable time, or who willfully produces or furnishes records that are false, is
26 guilty of a misdemeanor.

27 11. Section 4333 of the Code states, in pertinent part:

28 (a) All prescriptions filled by a pharmacy and all other records required by
Section 4081 shall be maintained on the premises and available for inspection by
authorized officers of the law for a period of at least three years. In cases where the
pharmacy discontinues business, these records shall be maintained in a board-
licensed facility for at least three years.

 (b) Any person who willfully fails to comply with subdivision (a) is guilty of
a misdemeanor, and upon conviction thereof, shall be punished by a fine not
exceeding two hundred dollars (\$200). Any person convicted of a second or
subsequent offense shall be punished by a fine of not less than two hundred dollars
(\$200) and not more than four hundred dollars (\$400).

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COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

13. **DRUG CLASSIFICATIONS.**

Brand Name	Generic Name	Dangerous Drugs per Bus. & Prof. Code section 4022	Controlled substance per H&SC	INDICATIONS FOR USE
DermacinRx Surgical PharmaPak	chlorhexidine gluconate 4%/ mupirocin ointment 2%	Yes	No	pre-operative wash, postoperative wound maintenance
Vanatol LQ	butalbital, acetaminophen, caffeine 50/325/40mg	Yes	No	Tension headaches

FACTUAL ALLEGATIONS

Patient DB

14. On or about May 2016, DB received a call from Respondent. The caller said that Respondent had a prescription to be filled for DB from Dr. John Enayati¹. The caller asked DB what kind of medical issues he had. DB told the caller he had none. The caller continued to ask questions and said the pharmacy would send him a sample of medicine for headaches and acne. Dr. Enayati's office is located in Los Angeles. DB lives in Elk Grove, California, in Sacramento County. DB had never used Respondent. DB had never been a patient of Dr. Enayati, who is located in Los Angeles. Subsequently, Dr. Enayati confirmed that DB had never been his patient.

¹ Also known as Ali John Enayati, M.D.

1 15. When medication from Respondent arrived at DB's home in Elk Grove, California, it
2 came with an invoice for \$133.59 with a sticky note attached that stated "this is not a bill". YB,
3 DB's wife, called Respondent and spoke with someone at the pharmacy who identified herself as
4 "Lilit". YB asked why the pharmacy called her husband. Lilit told her the pharmacy had a
5 prescription for her husband. YB informed Lilit they had never heard of or used that pharmacy.
6 She requested a copy of the prescriptions. Lilit told her she would email them to her. YB never
7 received a copy of the prescriptions.

8 16. YB contacted Dr. Enayati's office. The office told her they had never heard of or used
9 Respondent.

10 17. DB's insurance company informed YB that Respondent had billed them for the
11 medication.

12 18. The two prescription medications that DB received from Respondent were as follows:

13 a. RX 609055—DermacinRx Surgical PharmaPak. The prescription label included the
14 following:

15 o Directions: Apply thin film of triamcinolone cream and dimethicone solution
16 liberally to the affected area(s) topically 2-3 times daily

17 o Prescriber: Dr. John Enayati

18 o Prescription label date was 3/30/16

19 o Receipt date was 4/27/16

20 o Aetna insurance was used, Copay of \$68.59

21 o RPH initials on prescription label - FS/AS

22 o RPH initials on receipt - FS/VN

23 b. RX 613197- Vanatol™ LQ -946ml. The prescription label included the following:

24 o Directions: Take 1-2 tablespoonfuls (15-30mls) by mouth every [illegible number]
25 hours as needed. Max 90mls.

26 o Prescriber: Dr. John Enayati

27 o Receipt date was 4/27/16

28 o Aetna insurance was billed, Copay of \$65.00

o RPH initials on prescription label were not visible

o RPH initials on receipt - FS/VN

19. DermacinRx™ Surgical PharmaPak was manufactured by Puretek Corp. It was a combination boxed product that contained chlorhexidine gluconate wash 4%, mupirocin 2% ointment, dimethicaone 5%, and silicone tape. The product was indicated for pre- and post-operative wound care. The average wholesale price per box is approximately \$5,293.93.

20. Vanatol™ LQ² was manufactured for GM Pharmaceuticals, Inc. The product was a combination of butalbital 50mg, acetaminophen 325mg and caffeine 40mg per 15ml oral solution. The normal dosing for this medication was 15-30ml every 4 hours not to exceed 6 tablespoons. The indication of use is tension headaches. The average wholesale price for a 16-oz. bottle is approximately \$1400.

21. Both medications (DermacinRx and Vanatol™ LQ) were high priced drugs that had a coupon program that reimbursed the pharmacy with little or no cost to the patient.

22. On or about September 7, 2016, the Board received a notice of Discontinuance of Business from Respondent. The form was signed by Fred Startz (RPH 20782) and Goldmen. The business was discontinued on August 27, 2016. The form indicated the inventory was transferred to Family Care Pharmacy & Medical Supplies (PHY 53851) and the pharmacy records were transferred to The Pharmacy Depot (PHY 49262).

23. The Board's inspector made repeated requests to Respondent's owners, Karapetyan and Goldmen, and PIC Fred Startz for a patient profile from January 1, 2015 to August 26, 2016 for patient DB, original prescription documents RX#609055 and RX#613197, a dispensing record from January 1, 2015 to August 26, 2016 for Dr. John Enayati and drug utilization records for DermacinRx Surgical PharmaPak and Vanatol™ LQ for time period January 1, 2015, to August 26, 2016. Despite multiple requests, Respondent's owners, Karapetyan and Goldmen, and PIC Fred Startz failed to provide these records to the Board, which were necessary to perform a dispensing audit and investigation.

² <https://www.vanatol.com>.

1 Optum Rx Audit

2 24. On or around October 3, 2016, the Board was notified by the National Benefit
3 Integrity Medicare Drug Integrity Contractor (NBI MEDIC) that it received a complaint from
4 OptumRx regarding billing for services not rendered by Respondent. Optum Rx's complaint was
5 based on its audit of Respondent on March 25, 2016, for the period of March 1, 2015 to February
6 29, 2016. For its audit, Optum Rx required wholesale purchase records, drug utilization reports,
7 original prescription records, and proof of delivery to conduct the audit. On or about July 13,
8 2016, Optum Rx sent a letter to Respondent that stated that the audit found \$112,579.24 in
9 overpayments based on discrepant claims. The pharmacy was given 30 days to appeal. No appeal
10 was received. Consequently, Optum Rx suspended payments and required immediate
11 reimbursement in the amount of \$59,586.74. On or about October 23, 2016, Optum Rx terminated
12 Respondent for cause. The termination was based on the following findings:

- 13 • Inventory shortages identified during an invoice review - inaccurate or incomplete records
14 and data.
- 15 • Member denials of receipt of /request for medication services billed by Respondent.
- 16 • Prescriber denials of prescribing medications billed by Respondent.

17 25. On or about August 1, 2017, the Board sent letters via FedEx to Respondent's
18 owners, Karapetyan and Goldmen, requesting that they provide all pharmacy records used in
19 Optum Rx's audit conducted on March 25, 2016. Karapetyan (51% owner) failed to respond.
20 The requested records were not provided to the Board.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Failure to Maintain and Produce Pharmacy Records)**

23 26. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)
24 and (o), on the grounds of unprofessional conduct, by failing to maintain and produce pharmacy
25 records as required, in violation of Code section 4333, subdivisions (a) and (b). Complainant
26 refers to, and by this reference incorporates, the allegations set forth in paragraphs 14 through 25,
27 above, as though set forth fully herein.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Failure to Provide Requested Records)**

3 27. Respondent is subject to disciplinary action under Code sections 4301, subdivisions
4 (j) and (o), on the grounds of unprofessional conduct, for failing to produce or provide records
5 upon Board's request within a reasonable time, in violation of Code sections 4332 and 4081.
6 Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs
7 14 through 26, above, as though set forth fully herein.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**

10 28. Respondent is subject to disciplinary action under Code section 4301, subdivision (q),
11 on the grounds of unprofessional conduct, for engaging in conduct that subverts or attempts to
12 subvert an investigation of the Board. Specifically, after multiple requests, Respondent's owners,
13 Karapetyan and Goldmen, failed to produce the requested records needed in the Board
14 investigation involving medications sent to DB. In addition, Karapetyan (51% owner of
15 Respondent) did not respond to a request made by the Board for pharmacy records used to
16 conduct an insurance audit of Respondent on March 25, 2016. Complainant refers to, and by this
17 reference incorporates, the allegations set forth in paragraphs 14 through 27, above, as though set
18 forth fully herein.

19 **DISCIPLINE CONSIDERATIONS**

20 29. To determine the degree of discipline, Complainant alleges that:

21 a. On or about January 4, 2017, Respondent was issued administrative Citation No. CI
22 2015 66419 with \$500 fine for violating California Code of Regulations, title 16, sections 1714(b)
23 (failure to ensure operational standards and security) and 1761(a) (dispensing a prescription that
24 contains any significant error or omission) and Code of Federal Regulations, title 21, section
25 1305.05(a) (orders made for Schedule II controlled substance without the required power of
26 attorney). The Citation is final and incorporated herein by reference.

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OTHER MATTERS

30. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY 52545 issued to Van Nuys Rx, Inc., dba Van Nuys Pharmacy, Van Nuys Rx, Inc. shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit No. PHY 52545 is placed on probation or until Pharmacy Permit No. PHY 52545 is reinstated if it is revoked.

31. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY 52545 issued to Van Nuys Rx, Inc., dba Van Nuys Pharmacy while Hayk Karapetyan, officer/owner, and/or Alex Goldmen, officer/owner, was an officer and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Hayk Karapetyan and/or Alex Goldmen, as applicable, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit No. PHY 52545 is placed on probation or until Pharmacy Permit No. PHY 52545 is reinstated if it is revoked.

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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 52545, issued to Van Nuys Rx, Inc., dba Van Nuys Pharmacy;

2. Prohibiting Van Nuys Rx, Inc., from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit No. PHY 52545 is placed on probation or until Pharmacy Permit No. PHY 52545 is reinstated if Pharmacy Permit Number PHY 52545 issued to Van Nuys Rx, Inc., dba Van Nuys Pharmacy is revoked;

3. Prohibiting Hayk Karapetyan, officer/owner, and/or Alex Goldmen, officer/owner, as applicable, from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit No. PHY 52545 is placed on probation or until Pharmacy Permit No. PHY 52545 is reinstated if Pharmacy Permit No. PHY 52545 issued to Van Nuys Rx, Inc., dba Van Nuys Pharmacy is revoked;

4. Ordering Van Nuys Rx, Inc., dba Van Nuys Pharmacy to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 12/20/2020

Signature on File

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

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