

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

In the Matter of the Accusation Against:

**NGHI VAN DANG,
P.O. Box 388
Friant, CA 93626**

Pharmacist License No. RPH 54244

**DANG PHARMACY CORPORATION,
Doing business as
FRIANT PHARMACY,
NGHI VAN DANG, President and
Pharmacist in Charge,
17122 N. Friant Road
P.O. Box 388
Friant, CA 93626**

Original Pharmacy Permit No. PHY 47301

Case No. 5097

OAH No. 2016080859

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 this matter.

This Decision shall become effective at 5:00 p.m. on February 22, 2017.

It is so ORDERED on January 23, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 5097

12 **NGHI VAN DANG,**
P.O. Box 388
13 Friant, CA 93626

OAH No. 2016080859

14 **Pharmacist License No. RPH 54244**

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

15 **DANG PHARMACY CORPORATION,**
doing business as
16 **FRIANT PHARMACY,**
17 **NGHI VAN DANG, President and**
Pharmacist in Charge,
18 17122 N. Friant Road
P.O. Box 388
19 Friant, CA 93626

20 **Original Pharmacy Permit No. PHY 47301**

21 Respondents.

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

24 PARTIES

25 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
26 (Board). She brought this action solely in her official capacity and is represented in this matter by
27 Kamala D. Harris, Attorney General of the State of California, by Jeffrey M. Phillips, Deputy
28 Attorney General.

1 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

4 CULPABILITY

5 9. Respondents understand that the charges and allegations in Accusation No. 5097, if
6 proven at a hearing, constitute cause for imposing discipline upon its Pharmacy License and
7 Pharmacist License.

8 10. For the purpose of resolving the Accusation without the expense and uncertainty of
9 further proceedings, Respondents agrees that, at a hearing, Complainant could establish a factual
10 basis for the charges in the Accusation and that those charges constitute cause for discipline.
11 Respondents hereby gives up their right to contest each cause for discipline if this matter should
12 proceed to hearing.

13 11. Respondents understand that by signing this stipulation they enable the Board to issue
14 an order accepting the surrender of Respondent's Pharmacy License and Respondent's
15 Pharmacist License without further process.

16 RESERVATION

17 12. The admissions made by Respondents herein are only for the purposes of this
18 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
19 licensing agency is involved, and shall not be admissible in any other criminal or civil
20 proceeding.

21 CONTINGENCY

22 13. This stipulation shall be subject to approval by the Board. Respondents understand
23 and agrees that counsel for Complainant and the staff of the Board may communicate directly
24 with the Board regarding this stipulation and surrender, without notice to or participation by any
25 Respondent or their counsel. By signing the stipulation, Respondents understand and agrees that
26 they may not withdraw this agreement or seek to rescind the stipulation prior to the time the
27 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
28 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for

1 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
2 not be disqualified from further action by having considered this matter.

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

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

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

14 **ORDER**

15 IT IS HEREBY ORDERED that Pharmacist License No. RPH 54244 issued to Respondent
16 Nghi Van Dang is surrendered and accepted by the Board of Pharmacy.

17 1. Respondent surrenders Pharmacist License No. RPH 54244 as of the effective date of
18 this decision.

19 2. Respondent shall relinquish his or her wall license and pocket renewal license to the
20 board within ten (10) days of the effective date of this decision.

21 3. The surrender of respondent's license and the acceptance of the surrendered license by
22 the board shall constitute the imposition of discipline against respondent. This decision
23 constitutes a record of discipline and shall become a part of respondent's license history with the
24 board.

25 4. Respondent understands and agrees that if he ever files an application for licensure or
26 a petition for reinstatement in the State of California, the board shall treat it as a new application
27 for licensure.
28

1 5. Respondent may not apply for any license, permit, or registration from the board for
2 three years from the effective date of this decision. Respondent stipulates that should he apply for
3 any license from the board on or after the effective date of this decision, all allegations set forth in
4 Accusation No. 5097 shall be deemed to be true, correct and admitted by respondent when the
5 board determines whether to grant or deny the application. Respondent shall satisfy all
6 requirements applicable to that license as of the date the application is submitted to the board,
7 including, but not limited to taking and passing the California Pharmacist Licensure Examination
8 prior to the issuance of a new license. Respondent is required to report this surrender as
9 disciplinary action.

10 6. Respondent shall pay the agency its costs of investigation and enforcement in the
11 amount of \$18,054.50 prior to issuance of a new or reinstated license. This payment is joint and
12 severally liable between the Respondents.

13 IT IS ALSO HEREBY ORDERED that Original Permit Number PHY 47301 issued to
14 Dang Pharmacy Corporation, doing business as Friant Pharmacy, Nghi Van Dang, President and
15 Pharmacist in Charge is also surrendered and accepted by the Board of Pharmacy.

16 1. Respondent owner surrenders Original Permit Number PHY 47301 as of the effective
17 date of this decision. Respondent owner shall relinquish the premises wall license and renewal
18 license to the board within ten (10) days of the effective date of this decision.

19 2. The surrender of respondent's license and the acceptance of the surrendered license by
20 the board shall constitute the imposition of discipline against respondent. This decision
21 constitutes a record of discipline and shall become a part of respondent's license history with the
22 board.

23 3. Respondent owner shall, within ten (10) days of the effective date, arrange for the
24 destruction of, the transfer to, sale of or storage in a facility licensed by the board of all controlled
25 substances and dangerous drugs and devices. Respondent owner shall further provide written
26 proof of such disposition and submit a completed Discontinuance of Business form according to
27 board guidelines.

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1 4. Respondent owner shall also, by the effective date of this decision, arrange for the
2 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
3 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
4 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
5 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five
6 days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a
7 copy of the written notice to the board. For the purposes of this provision, "ongoing patients"
8 means those patients for whom the pharmacy has on file a prescription with one or more refills
9 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)
10 days.

11 5. Respondent owner understands and agrees that if he ever files an application for a
12 licensed premises or a petition for reinstatement in the State of California, the board shall treat it
13 as a new application for licensure. Respondent owner may not reapply for any license from the
14 board for three (3) years from the effective date of this decision. Respondent owner stipulates that
15 should he apply for any license from the board on or after the effective date of this decision, all
16 allegations set forth in Accusation No. 5097 shall be deemed to be true, correct and admitted by
17 respondent when the board determines whether to grant or deny the application. Respondent shall
18 satisfy all requirements applicable to that license as of the date the application is submitted to the
19 board. Respondent is required to report this surrender as disciplinary action.

20 6. Respondent shall pay the agency its costs of investigation and enforcement in the
21 amount of \$18,054.50 prior to issuance of a new or reinstated license. This payment is joint and
22 severally liable between the Respondents.

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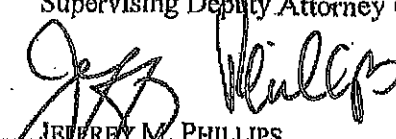
ENDORSEMENT

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

Dated: 12/14/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General



JEFFREY M. PHILLIPS
Deputy Attorney General
Attorneys for Complainant

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12470365

Exhibit A

Accusation No. 5097

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
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4 State Bar No. 154990
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 5097

12 **NGHI VAN DANG,**
13 **P.O. Box 388**
Friant, CA 93626

ACCUSATION

14 **Pharmacist License No. RPH 54244**

15 **DANG PHARMACY CORPORATION,**
16 **doing business as**
FRIANT PHARMACY,
17 **NGHI VAN DANG, President and**
Pharmacist in Charge,
18 **P.O. Box 388**
Friant, CA 93626

19 **Original Pharmacy Permit No. PHY 47301**

20 Respondents.

21
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about March 26, 2003, the Board of Pharmacy issued Pharmacist License
27 Number 54244 to Respondent Nghi Van Dang. The Pharmacist License was in full force and
28 effect at all times relevant to the charges brought herein and will expire on May 31, 2016, unless

1 renewed.

2 3. On or about October 3, 2005, the Board of Pharmacy issued Original Permit Number
3 PHY 47301 to Dang Pharmacy Corporation, doing business as Friant Pharmacy, Nghi Van Dang,
4 President and Pharmacist in Charge. The Pharmacy License was in full force and effect at all
5 times relevant to the charges brought herein and will expire on October 1, 2016, unless renewed.

6 **JURISDICTION**

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

10 5. Section 4301 of the Code states:

11 The board shall take action against any holder of a license who is guilty
12 of unprofessional conduct. . . Unprofessional conduct shall include, but is not limited
to, any of the following:

13 ...

14 (b) Incompetence

15 (c) Gross Negligence

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

18 ...

19 (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.

20 ...

21 (o) Violating or attempting to violate, directly or indirectly, or assisting in
22 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
23 pharmacy, including regulations established by the board or by any other state or
federal regulatory agency.

24 6. Section 4075 of the Code states:

25 No prescription for a controlled substance transmitted by means of an oral or
26 electronically transmitted order shall be furnished to any person unknown and
unable to properly establish his or her identity. The board may by regulation
27 establish procedures to prevent unauthorized persons from receiving prescription
drugs furnished to a patient or a representative of the patient.

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7. Section 4113 of the Code states:

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

8. Title 21, Code of Federal Regulations, Section 1306.04, subsection (a), states:

A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his 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. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

9. Section 4307(a) of the Code states that:

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

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

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

10. Health and Safety Code section 11153 states:

(a) 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.

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

5 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

6 12. Oxycodone is a semisynthetic narcotic analgesic with multiple actions qualitatively
7 similar to those of morphine. It is a dangerous drug as defined in section 4022, a schedule II
8 controlled substance and narcotic as defined by section 11055, subdivision (b)(1)(M) of the
9 Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12
10 (b)(1) of Title 21 of the Code of Federal Regulations.

11 13. Hydrocodone, also known as hydrocodone bitartrate, is semisynthetic narcotic
12 analgesic and a Schedule III controlled substance as designated by Health and Safety Code
13 section 11056(e)(4). It is also sold under brand names Vicodin®, Norco®, Lortab®, and
14 Lorcel®.

15 14. Carisoprodol (brand name "Soma") is a dangerous drug within the meaning of
16 Business and Professions Code section 4022 and in 2012 became a Schedule IV controlled
17 substance under 21 Code of Federal Regulations, section 1308.14(c)(6).

18 **STATEMENT OF FACTS**

19 15. On or about February 13, 2012, the Board received an email from a pharmacy that
20 expressed concern over the legitimacy of prescriptions from a Fresno, CA, physician, Dr. JF, for
21 controlled substances. (Oxycodone, Norco, Xanax, and Soma.) The Board conducted a review of
22 the Controlled Substance Utilization Review and Evaluation System (CURES) database that
23 identified that Respondent Friant Pharmacy was a top-filling pharmacy for Dr. JF's prescriptions.

24 16. On or about August 21, 2013, the Board conducted an inspection of Respondent
25 Friant Pharmacy that confirmed that this pharmacy had two employees, Pharmacist-in-charge
26 (PIC) Nghi Dang and a non-licensed ancillary employee. During this inspection, the Board
27 obtained a copy of Dr. JF's dispensing report and drug usage reports for oxycodone, hydrocodone
28 and carisoprodol.

1 17. Eleven patient profiles from among the list of Dr. JF's patients were obtained during
2 the Board's inspection of Respondent Friant Pharmacy. Respondent Dang completed patient
3 questionnaires for these 11 patients, and provided payment information, and copies of
4 prescriptions. These documents showed a pattern of Respondents filling prescriptions for Dr. JF's
5 patients with the same or similar combination of hydrocodone, oxycodone, and carisoprodol.

6 18. The 11 patient questionnaires filled out by Respondent Dang noted a "liaison" picked
7 up prescriptions for Dr. JF's patients, except one. Respondent Dang stated that a patient of Dr. JF
8 named TM picked up prescription medication for patients at her group home. Respondent then
9 provided a list of these 37 patients to the Board. Although Respondent Dang stated that Dr. JF
10 had provided a note authorizing TM to pickup prescription medication for these 37 patients,
11 Respondent could not produce a copy of this note. Although TM was a liaison for a "group
12 home," no address was provided by Respondents for the group home. Respondents did not
13 provide any documentation from any of the 37 patients that authorized TM to pick up their
14 prescription drugs. Respondent Dang did not meet any of the 37 patients except TM. All of
15 TM's 37 "clients" paid cash. Approximately 412 controlled prescriptions were filled for TM's 37
16 clients by Respondents, between January 1, 2011 and December 15, 2012, that includes more
17 than 20,500 units of oxycodone 30mg and 24,600 units of hydrocodone/apap. An internet search
18 into TM's group home revealed that TM was arrested in Baton Rouge, Louisiana in December
19 2012 and federally charged with illegal possession with intent to distribute a large quantity of
20 prescription drugs (hydrocodone, roxicodone, and carisoprodol).

21 19. After reviewing the list of patients, the Board Inspector requested Respondent Dang
22 to provide the patient profiles and to complete questionnaires for four (4) additional patients: TM,
23 CM, JM, and TMe. The combination of oxycodone, hydrocodone/apap, and carisoprodol
24 prescribed to these four (4) patients were similar to the other 11 patient profiles reviewed by the
25 Board Inspector.

26 20. With regard to the 15 patient profiles and questionnaires filled out by Respondent
27 Dang of Dr. JF's patients, the evidence obtained by the Board shows: 14/15 lived 160 miles or
28 greater from the pharmacy and lived greater than 160 miles from Dr. JF's office (93%); 15

1 patients paid cash (100%); 14/15 patients prescriptions were picked up by TM (93%), Respondent
2 Dang only met 2 of the 15 patients (TM and one other) (13%), 14/15 of the patients were
3 identified as a client of TM. The 15 patients reviewed showed a total cash sales between 1/1/11
4 to 12/15/12 of over \$26,000. A total of 113 hard copy prescriptions were written for the 15
5 patients reviewed, of which the following were dispensed: 5550 units of oxycodone 30mg (93%),
6 6450 units of hydrocodone/apap (combined total for strengths 10/325 and 10/500) (99%), and all
7 prescriptions included an order for carisoprodol (100%).

8 21. The information obtained from the Board shows that between January 1, 2011 and
9 December 15, 2012, 5287 of the 9776 controlled substance prescriptions dispensed by
10 Respondent Friant Pharmacy were written by Dr. JF (54%), with the next closest prescriber
11 writing 980 controlled substances (10%). Of the 5287 prescriptions written by Dr. JF, 5276
12 prescriptions were cash (99%), whereas 11 were listed as other payers (1%). Of the 2420
13 prescriptions for oxycodone 30mg dispensed by Respondent Friant Pharmacy, Dr. JF wrote 2334
14 of the prescriptions (96%). Of the 1566 prescriptions for carisoprodol 350mg that were dispensed
15 by Respondent Friant Pharmacy, Dr. JF wrote 935 of the prescriptions (58%). Of the 2521
16 prescriptions for hydrocodone/apap 10/325 that were dispensed by Respondent Friant Pharmacy,
17 Dr. JF wrote 2054 of the prescriptions (81%). Of the 315 prescriptions for hydrocodone/apap
18 10/500 that were dispensed by Respondent Friant Pharmacy, Dr. JF wrote 298 of the prescriptions
19 (94%).

20 22. Information from the Medical Board of California indicated that another "liaison" by
21 the name of DB also picked up controlled substances for Dr. JF's patients at Respondent Friant
22 Pharmacy.

23 23. Information obtained from the Board indicate the following: DB was a patient of Dr.
24 JF and a "liaison" for 83 other patients of Dr. JF who picked up prescriptions from Respondent
25 Friant Pharmacy. DB always paid cash for prescriptions at Respondent Friant Pharmacy. Of
26 these 84 patients, between January 1, 2011 and December 15, 2012, Respondents dispensed 356
27 prescriptions containing 36,720 units of Oxycodone 30mg, 467 prescriptions containing 56,760
28 units of Hydrocodone/apap, and 39 prescriptions containing 4,590 units of Carisoprodol 350mg.

1 Respondent did not provide any written authorization from Dr. JF that allows DB to pick up any
2 prescription drugs for any of these 83 patients. Respondents did not provide any documentation
3 from any of the 83 patients that authorized DB to pick up their prescription drugs.

4 24. From these 84 patients (including DB), the Board obtained seven (7) patient profiles
5 that indicated that between January 1, 2011 and December 15, 2012, at least sixty-seven (67)
6 prescriptions were dispensed by Respondent Friant Pharmacy for these seven (7) patients. Of
7 these, 66/67 prescriptions contained oxycodone 30mg (98.5%), 65/67 contained carisoprodol
8 (97% - 2 prescriptions were transferred to another pharmacy), and 66/67 contained
9 hydrocodone/apap = 98.5%). Of the seven profiles reviewed by the Board, Respondent Dang
10 stated that he remembered meeting four (4) of these patients seven patients.

11 25. Respondent Dang stopped filling Dr. JF's prescriptions in or about November 2012,
12 after Respondent received a warning from his wholesaler, Cardinal, regarding his oxycodone
13 purchases. On or about September 18, 2013, a full interim suspension order was issued by the
14 Medical Board of California prohibiting Dr. JF from practicing medicine. On or about October
15 17, 2013, an Accusation was filed by the Medical Board of California against Dr. JF, containing
16 allegations of illegal prescribing of controlled substances. On or about April 9, 2014, the Medical
17 Board of California adopted the stipulated surrender of Dr. JF's medical license, with Dr. JF fully
18 admitting to the excessive prescribing of controlled substances and dangerous drugs to patients,
19 among other causes for discipline.

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Clearly Excessive Furnishing of Controlled Substances)

22 26. Respondent Nghi Van Dang is subject to disciplinary action under section 4301(d),
23 based on the clearly excessive furnishing of controlled substances without verifying a legitimate
24 medical purpose in violation of Health and Safety Code 11153(a), as alleged in paragraphs 15
25 through 25.

26 27. Specifically from on or about 1/1/11 to on or about 12/15/12 while working at Friant
27 Pharmacy located at 17122 North Friant Road, Friant, California, owner and pharmacist-in-
28 charge Nghi Dang (RPH 54244) failed to verify a legitimate medical purpose when dispensing

1 oxycodone 30mg, carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500
2 prescribed by Dr. JF. Respondent Dang failed to exercise his best professional judgment by
3 failed to question Dr. JF repetitive prescribing habits, the remote location of Dr. JF's patients'
4 address in relation to the pharmacy, the remote location of Dr. JF's patients address in relation to
5 the physician, the fact that all the prescriptions were cash transactions (not billed to a 3rd party),
6 and the fact that the prescriptions were being dropped off and picked up by someone other than
7 the patient, with no written authorization from the patients or Dr. JF.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Violation Of Statute Or Regulation Governing Controlled Substances And Dangerous Drugs)

10 28. Respondent Nghi Van Dang is subject to disciplinary action under section 4301(j),
11 based on the clearly excessive furnishing of controlled substances without verifying a legitimate
12 medical purpose in violation of Code section 4075, and/or Health and Safety Code 11153(a)
13 and/or Title 21, Code of Federal Regulations, Section 1306.04, subsection (a), as alleged in
14 paragraphs 15 through 25.

15 29. Specifically from on or about 1/1/11 to on or about 12/15/12 while working at Friant
16 Pharmacy located at 17122 North Friant Road, Friant, California, owner and pharmacist-in-
17 charge Nghi Dang (RPH 54244) failed to verify a legitimate medical purpose when dispensing
18 oxycodone 30mg, carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500
19 prescribed by Dr. JF. Respondent Dang failed to exercise his best professional judgment by
20 failed to question Dr. JF repetitive prescribing habits, the remote location of Dr. JF's patients'
21 address in relation to the pharmacy, the remote location of Dr. JF's patients address in relation to
22 the physician, the fact that all the prescriptions were cash transactions (not billed to a 3rd party),
23 and the fact that the prescriptions were being dropped off and picked up by someone other than
24 the patient, with no written authorization from the patients or Dr. JF.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Conspiring To Violate Federal/ State Laws And Regulations Governing
3 Controlled Substances And Dangerous Drugs)

4 30. Respondent Nghi Van Dang is subject to disciplinary action under section 4301(o), in
5 that he assisted in, and/or abetted, and/or conspiring with Dr. JF, and/or TM, and/or DB in the
6 violation of federal/ state laws and regulations governing controlled substances and dangerous
7 drugs and/ or the clearly excessive furnishing of controlled substances without verifying a
8 legitimate medical purpose in violation of Code section 4075, and/or Health and Safety Code
9 11153(a) and/or Title 21, Code of Federal Regulations, Section 1306.04, subsection (a), as
10 alleged in paragraphs 15 through 25.

11 31. Specifically from on or about 1/1/11 to on or about 12/15/12 while working at Friant
12 Pharmacy located at 17122 North Friant Road, Friant, California, owner and pharmacist-in-
13 charge Nghi Dang (RPH 54244) failed to verify a legitimate medical purpose when dispensing
14 oxycodone 30mg, carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500
15 prescribed by Dr. JF. Respondent Dang failed to exercise his best professional judgment by
16 failed to question Dr. JF repetitive prescribing habits, the remote location of Dr. JF's patients'
17 address in relation to the pharmacy, the remote location of Dr. JF's patients address in relation to
18 the physician, the fact that all the prescriptions were cash transactions (not billed to a 3rd party),
19 and the fact that the prescriptions were being dropped off and picked up by someone other than
20 the patient, with no written authorization from the patients or Dr. JF.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 (Gross Negligence and/or Incompetence)

23 32. Respondent Nghi Van Dang is subject to disciplinary action under section 4301,
24 subsections (b) and/or (c), based on the excessive furnishing of controlled substances, as alleged
25 in paragraphs 15 through 25.

26 33. Specifically from on or about 1/1/11 to on or about 12/15/12 while working at Friant
27 Pharmacy located at 17122 North Friant Road, Friant, California, owner and pharmacist-in-
28 charge Nghi Dang (RPH 54244) failed to verify a legitimate medical purpose when dispensing

1 oxycodone 30mg, carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500
2 prescribed by Dr. JF. Respondent Dang failed to exercise his best professional judgment by
3 failed to question Dr. JF repetitive prescribing habits, the remote location of Dr. JF's patients'
4 address in relation to the pharmacy, the remote location of Dr. JF's patients address in relation to
5 the physician, the fact that all the prescriptions were cash transactions (not billed to a 3rd party),
6 and the fact that the prescriptions were being dropped off and picked up by someone other than
7 the patient, with no written authorization from the patients or Dr. JF.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 (General Unprofessional Conduct)

10 34. Respondent Nghi Van Dang is subject to disciplinary action under section 4301, for
11 general unprofessional conduct based on the excessive furnishing of controlled substances, as
12 alleged in paragraphs 15 through 25.

13 35. Specifically from on or about 1/1/11 to on or about 12/15/12 while working at Friant
14 Pharmacy located at 17122 North Friant Road, Friant, California, owner and pharmacist-in-
15 charge Nghi Dang (RPH 54244) failed to verify a legitimate medical purpose when dispensing
16 oxycodone 30mg, carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500
17 prescribed by Dr. JF. Respondent Dang failed to exercise his best professional judgment by
18 failed to question Dr. JF repetitive prescribing habits, the remote location of Dr. JF's patients'
19 address in relation to the pharmacy, the remote location of Dr. JF's patients address in relation to
20 the physician, the fact that all the prescriptions were cash transactions (not billed to a 3rd party),
21 and the fact that the prescriptions were being dropped off and picked up by someone other than
22 the patient, with no written authorization from the patients or Dr. JF.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 (Failure to Comply with State and Federal Laws)

25 36. Respondent Nghi Van Dang is subject to disciplinary action under section 4113,
26 subsection (c) for his failure to comply with all state and federal laws and regulations pertaining
27 to the practice of pharmacy based on the excessive furnishing of controlled substances, as alleged
28 in paragraphs 15 through 25.

1 SEVENTH CAUSE FOR DISCIPLINE

2 (Clearly Excessive Furnishing of Controlled Substances)

3 37. Respondent Dang Pharmacy Corporation, doing business as Friant Pharmacy, is
4 subject to disciplinary action under section 4301(d), based on the clearly excessive furnishing of
5 controlled substances without verifying a legitimate medical purpose in violation of Health and
6 Safety Code 11153(a), as alleged in paragraphs 15 through 25.

7 38. Specifically from on or about 1/1/11 to on or about 12/15/12 while working at Friant
8 Pharmacy located at 17122 North Friant Road, Friant, California, owner and pharmacist-in-
9 charge Nghi Dang (RPH 54244) failed to verify a legitimate medical purpose when dispensing
10 oxycodone 30mg, carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500
11 prescribed by Dr. JF. Respondent Dang failed to exercise his best professional judgment by
12 failed to question Dr. JF repetitive prescribing habits, the remote location of Dr. JF's patients'
13 address in relation to the pharmacy, the remote location of Dr. JF's patients address in relation to
14 the physician, the fact that all the prescriptions were cash transactions (not billed to a 3rd party),
15 and the fact that the prescriptions were being dropped off and picked up by someone other than
16 the patient, with no written authorization from the patients or Dr. JF.

17 EIGHTH CAUSE FOR DISCIPLINE

18 (Violation Of Statute Or Regulation Governing Controlled Substances And Dangerous Drugs)

19 39. Respondent Dang Pharmacy Corporation, doing business as Friant Pharmacy, is
20 subject to disciplinary action under section 4301(j), based on the clearly excessive furnishing of
21 controlled substances without verifying a legitimate medical purpose in violation of Code section
22 4075, and/or Health and Safety Code 11153(a) and/or Title 21, Code of Federal Regulations,
23 Section 1306.04, subsection (a), as alleged in paragraphs 15 through-25.

24 40. Specifically from on or about 1/1/11 to on or about 12/15/12 while working at Friant
25 Pharmacy located at 17122 North Friant Road, Friant, California, owner and pharmacist-in-
26 charge Nghi Dang (RPH 54244) failed to verify a legitimate medical purpose when dispensing
27 oxyoodone 30mg, carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500
28 prescribed by Dr. JF. Respondent Dang failed to exercise his best professional judgment by

1 failed to question Dr. JF repetitive prescribing habits, the remote location of Dr. JF's patients'
2 address in relation to the pharmacy, the remote location of Dr. JF's patients address in relation to
3 the physician, the fact that all the prescriptions were cash transactions (not billed to a 3rd party),
4 and the fact that the prescriptions were being dropped off and picked up by someone other than
5 the patient, with no written authorization from the patients or Dr. JF.

6 **NINTH CAUSE FOR DISCIPLINE**

7 (Conspiring To Violate Federal/ State Laws And Regulations Governing
8 Controlled Substances And Dangerous Drugs)

9 41. Respondent Dang Pharmacy Corporation, doing business as Friant Pharmacy, is
10 subject to disciplinary action under section 4301(o), in that it assisted in, and/or abetted, and/or
11 conspiring with Dr. JF, and/or TM, and/or DB in the violation of federal/ state laws and
12 regulations governing controlled substances and dangerous drugs and/ or the clearly excessive
13 furnishing of controlled substances in violation of Code section 4075, and/or Health and Safety
14 Code 11153(a) and/or Title 21, Code of Federal Regulations, Section 1306.04, subsection (a as
15 alleged in paragraphs 15 through 25.

16 42. Specifically from on or about 1/1/11 to on or about 12/15/12 while working at Friant
17 Pharmacy located at 17122 North Friant Road, Friant, California, owner and pharmacist-in-
18 charge Nghi Dang (RPH 54244) failed to verify a legitimate medical purpose when dispensing
19 oxycodone 30mg, carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500
20 prescribed by Dr. JF. Respondent Dang failed to exercise his best professional judgment by
21 failed to question Dr. JF repetitive prescribing habits, the remote location of Dr. JF's patients'
22 address in relation to the pharmacy, the remote location of Dr. JF's patients address in relation to
23 the physician, the fact that all the prescriptions were cash transactions (not billed to a 3rd party),
24 and the fact that the prescriptions were being dropped off and picked up by someone other than
25 the patient, with no written authorization from the patients or Dr. JF.

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1 **TENTH CAUSE FOR DISCIPLINE**

2 (Gross Negligence and/or Incompetence)

3 43. Respondent Dang Pharmacy Corporation, doing business as Friant Pharmacy, is
4 subject to disciplinary action under section 4301, subsection (b) and/or (c), based on the excessive
5 furnishing of controlled substances without verifying a legitimate medical purpose, as alleged in
6 paragraphs 15 through 25.

7 44. Specifically from on or about 1/1/11 to on or about 12/15/12 while working at Friant
8 Pharmacy located at 17122 North Friant Road, Friant, California, owner and pharmacist-in-
9 charge Nghi Dang (RPH 54244) failed to verify a legitimate medical purpose when dispensing
10 oxycodone 30mg, carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500
11 prescribed by Dr. JF. Respondent Dang failed to exercise his best professional judgment by
12 failed to question Dr. JF repetitive prescribing habits, the remote location of Dr. JF's patients'
13 address in relation to the pharmacy, the remote location of Dr. JF's patients address in relation to
14 the physician, the fact that all the prescriptions were cash transactions (not billed to a 3rd party),
15 and the fact that the prescriptions were being dropped off and picked up by someone other than
16 the patient, with no written authorization from the patients or Dr. JF.

17 **ELEVENTH CAUSE FOR DISCIPLINE**

18 (General Unprofessional Conduct)

19 45. Respondent Dang Pharmacy Corporation, doing business as Friant Pharmacy, is
20 subject to disciplinary action under section 4301, for general unprofessional conduct based on the
21 excessive furnishing of controlled substances, as alleged in paragraphs 15 through 25.

22 46. Specifically from on or about 1/1/11 to on or about 12/15/12 while working at Friant
23 Pharmacy located at 17122 North Friant Road, Friant, California, owner and pharmacist-in-
24 charge Nghi Dang (RPH 54244) failed to verify a legitimate medical purpose when dispensing
25 oxycodone 30mg, carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500
26 prescribed by Dr. JF. Respondent Dang failed to exercise his best professional judgment by
27 failed to question Dr. JF repetitive prescribing habits, the remote location of Dr. JF's patients'
28 address in relation to the pharmacy, the remote location of Dr. JF's patients address in relation to

1 the physician, the fact that all the prescriptions were cash transactions (not billed to a 3rd party),
2 and the fact that the prescriptions were being dropped off and picked up by someone other than
3 the patient, with no written authorization from the patients or Dr. JF.

4 DISCIPLINARY CONSIDERATIONS

5 47. To determine the degree of discipline, if any, to be imposed on Respondent Nghi Van
6 Dang, Complainant alleges that on or about August 10, 2013, in a prior action, the Board of
7 Pharmacy issued Citation Number CI 2013 57545 for a violation of Title 16 California Code of
8 Regulations, section 1761 (Erroneous or Uncertain Prescriptions) and ordered Respondent to pay
9 a fine in the amount of \$1,500.00. To determine the degree of discipline, if any, to be imposed
10 on Respondent Friant Pharmacy, Complainant alleges that on or about July 11, 2013, in a prior
11 action, the Board of Pharmacy issued Citation Number CI 2012 54584 for a violation of Title 16
12 California Code of Regulations, section 1761 (Erroneous or Uncertain Prescriptions). These
13 Citations are now final and is incorporated by reference as if fully set forth.

14 OTHER MATTERS

15 48. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
16 PHY 47301 issued to Dang Pharmacy Corporation, doing business as Friant Pharmacy, then
17 Dang Pharmacy Corporation shall be prohibited from serving as a manger, administrator, owner,
18 member, officer, director, associate, or partner of a licensee for a period not to exceed five years
19 if Pharmacy Permit Number PHY 47301 is placed on probation or until Pharmacy Permit Number
20 PHY 47301 is reinstated, if the permit is revoked.

21 49. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
22 PHY 47301 issued to Dang Pharmacy Corporation, doing business as Friant Pharmacy or if
23 discipline is imposed on Pharmacist License No. RPH 45244 issued to Nghi Van Dang, for
24 violations during the time that Nghi Van Dang acted as a manger, administrator, owner, member,
25 officer, director, associate, or partner and Nghi Van Dang had knowledge or knowingly
26 participated in any conduct for which the permit or license was disciplined, then Nghi Van Dang
27 shall be prohibited from serving as a manger, administrator, owner, member, officer, director,
28 associate, or partner on a license or permit issued by the Board for a period not to exceed five

1 years if discipline results in probation or until the license or permit is reinstated, if the license or
2 permit is revoked.

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4 **PRAYER**

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

7 1. Revoking or suspending Pharmacist License Number RPH 45244, issued to Nghi
8 Van Dang;

9 2. Revoking or suspending Pharmacy License Number PHY 47301, issued to Dang
10 Pharmacy Corporation, doing business as Friant Pharmacy, Nghi Van Dang, President and
11 Pharmacist in Charge;

12 3. Prohibiting Dang Pharmacy Corporation, doing business as Friant Pharmacy from
13 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
14 licensee for five years if Pharmacy Permit Number PHY 47301 is placed on probation or until
15 Pharmacy Permit Number PHY 47301 is reinstated if the Pharmacy Permit is revoked;

16 4. Prohibiting Nghi Van Dang from serving as a manager, administrator, owner, member,
17 officer, director, associate, or partner of a licensee for five years if either Pharmacy Permit
18 Number PHY 47301 or Pharmacist License Number RPH 45244 is placed on probation;

19 5. Prohibiting Nghi Van Dang from serving as a manager, administrator, owner, member,
20 officer, director, associate, or partner of a licensee if either Pharmacy Permit Number PHY 47301
21 or Pharmacist License Number RPH 45244 is revoked, until Pharmacy Permit Number PHY
22 47301 or Pharmacist License Number RPH 45244 is reinstated;

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6. Ordering Nghi Van Dang and Dang Pharmacy Corporation, doing business as Friant 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;

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

DATED: 7/30/16

Virginia Herold

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

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