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

In the Matter of the Accusation Against: **ZAID FALAH NAOOM** **2286 Crystal Clear Drive** **Spring Valley, CA 91978** **Pharmacy Technician Registration No. TCH 129883** Respondent.	Case No. 5692 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On April 4, 2013, the Board of Pharmacy (Board) issued Pharmacy Technician Registration Number TCH 129883 to Zaid Falah Naoom (Respondent). Respondent has also been known as Zaid Naoom. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2017, unless renewed.

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JURISDICTION

3. This Accusation is brought before the 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, subdivision (a), of the Code provides that every license issued by the Board may be suspended or revoked.

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 482 of the Code states:

> Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:
>
> (a) Considering the denial of a license by the board under Section 480; or
>
> (b) Considering suspension or revocation of a license under Section 490.
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> Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 4301 of the Code states:

> The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:
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> . . . .
>
> (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
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> . . . .
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> (l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of

this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of *nolo contendere* is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

. . . .

(p) Actions or conduct that would have warranted denial of a license.

. . . .

REGULATORY PROVISIONS

8. Title 16 of the California Code of Regulations (CCR), section 1769, states:

. . . .

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

9. CCR, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or

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registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

COST RECOVERY

10. 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.

FIRST CAUSE FOR DISCIPLINE

(July 2, 2015 Criminal Conviction for Hit and Run with Death on June 21, 2014)

11. Respondent has subjected his Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (l) in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered pharmacy technician. The circumstances are as follows:

a. On July 2, 2015, in a criminal proceeding entitled *The People of the State of California v. Zaid Naoom*, in the San Diego County Superior Court, Central Division, Case Number CD262026, Respondent was convicted on his plea of guilty of violating Vehicle Code (VC) section 20001, subdivision (b)(2), hit and run with death, a felony.

b. As a result of his conviction, on August 19, 2015, Respondent was sentenced to be committed to the custody of the San Diego County Sheriff for 365 days, with credit for three days actually served and two days for good behavior, the balance of which was stayed pending successful completion of probation. Respondent was granted three years formal probation subject to certain terms and conditions until August 18, 2018. Respondent was ordered to pay fines, assessments, fees, and a contribution to the restitution fund. Respondent was also ordered to perform 15 days of public service and grant the victim's family three hours of restorative justice meetings, if requested.

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c. The facts that led to the conviction are that on or about June 21, 2014, Respondent was driving northbound on Nimitz Boulevard in San Diego, California. While Respondent was approaching the intersection of Sunset Cliffs Boulevard and the interstate I-8 freeway entrance ramp, a woman on skateboard was diagonally crossing Nimitz Boulevard from the west side to the east side. Respondent's vehicle struck the woman as her skateboard was crossing his path in the second lane. Respondent fled the scene of the collision.

d. The next morning, a passenger in a car saw a female lying on the side of the road in the ice plant. The driver stopped the car, both exited to investigate, then called 911. San Diego Police Department officers and San Diego Fire Department personnel responded to the scene and confirmed the death without intervention due to obvious trauma from an apparent hit and run. The Office of the Medical Examiner invoked jurisdiction under California Government Code section 27491. A couple days later, Respondent surrendered to the police. In May 2015, Respondent was arrested for the hit and run.

SECOND CAUSE FOR DISCIPLINE

(Commission of Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)

12. Respondent has subjected his Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (f), in that on June 21, 2014, Respondent unlawfully failed to render to the person struck by his vehicle reasonable assistance, including transporting the injured person to a physician, surgeon, or hospital for medical or surgical treatment, an act in violation of VC section 20003, involving moral turpitude, dishonesty, fraud, or deceit.

THIRD CAUSE FOR DISCIPLINE

(Commission of Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)

13. Respondent has subjected his Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (f), in that on June 21, 2014, Respondent failed to report, without delay, the accident to the nearest office of the Department of the California Highway Patrol or office of a duly authorized police authority and submit with the report the information required by VC section 20003, in violation of VC section 20004, which are acts of omission involving moral turpitude, dishonesty, fraud, or deceit.

FOURTH CAUSE FOR DISCIPLINE

(Conduct That Would Have Warranted Denial of a License)

14. Respondent subjected his Pharmacy Technician Registration to discipline under Code section 4301, subdivision (p), in that Respondent was convicted of a felony, conduct that would have warranted the denial of a pharmacy technician registration under Code section 480, subdivision (a)(1), as detailed in paragraph 11, above.

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 Technician Registration Number TCH 129883, issued to Zaid Falah Naoom;

2. Ordering Zaid Falah Naoom 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

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

DATED: 2/20/16

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

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