

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

In the Matter of the Accusation Against:

ALI HUSSEIN YOUSSEF,
11551 Rancho del Valle
Granada Hills, CA 91344

Pharmacist License No. RPH 64023

Respondent.

Case No. 5122

OAH No. 2015120649

ORDER DENYING RECONSIDERATION

On April 12, 2016, the Board of Pharmacy issued a Decision in the above matter, which was set to become effective on May 12, 2016. Respondent timely filed a Petition for Reconsideration and the effective date of the April 12, 2016, Decision was stayed until 5:00 p.m. on May 23, 2016, to allow time for the Board to consider the Petition.

The Petition for Reconsideration, having now been read and considered, and good cause for the granting of the petition not having been shown, the petition is hereby denied.

The April 12, 2016, Decision is the Board of Pharmacy's final decision in this matter and will become effective at the end of the stay, that is, at 5:00 p.m. on May 23, 2016.

IT IS SO ORDERED this 24th day of May, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

ALI HUSSEIN YOUSSEF,

Pharmacist License No. RPH 64023

Respondent.

Case No. 5122

OAH No. 2015120649

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as the decision in the above-entitled matter, except that, pursuant to the provisions of Government Code section 11517, subdivision (c)(2)(C), the following technical change is made to page one of the caption box:

"Case No. 5122"

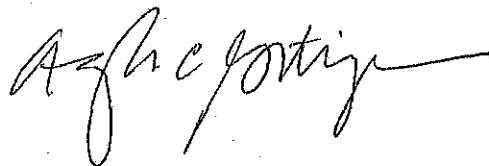
In addition, the following technical change is made to page seven, Paragraph #10:

"Cause exists to suspend or revoke Respondent's pharmacist license under Code sections 4300 and 4301, subdivision (f), for committing acts involving moral turpitude, as set forth in Factual Findings 4 through 7."

The technical changes made above do not affect the factual or legal basis of the Proposed Decision, which shall become effective at 5:00 p.m. on May 12, 2016.

IT IS SO ORDERED this 12th day of April, 2016.

BOARD OF PHARMACY
-----DEPARTMENT OF CONSUMER AFFAIRS-----
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

ALI HUSSEIN YOUSSEF,

Pharmacist License No. RPH 64023

Respondent.

Case No. 4338

OAH No. 2015120649

PROPOSED DECISION

This matter was heard on February 22, 2016, at Los Angeles, California, by David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, State of California. Oral and documentary evidence was presented and the matter was submitted for decision on February 22, 2016. Complainant Virginia Herold was represented by Deputy Attorney General Elyse M. Davidson. Respondent Ali Hussein Youssef was not present, but was represented by Herb L. Weinberg, Attorney at Law.

At the hearing the Accusation was amended, at page 4, line 17, to change a date from July 29, 2014, to July 9, 2014.

Complainant seeks revocation of respondent's pharmacist license based on convictions and acts of moral turpitude. Respondent contends the convictions and acts are not a basis for license discipline or, in the alternative, offered evidence of mitigating circumstances and requests a suspension of indeterminate length and other conditions. It is recommended that the license be revoked.

FACTUAL FINDINGS

The Administrative Law Judge finds the following facts:

1. The Accusation was issued by complainant Virginia Herold in her official capacity as Executive Officer of the Board of Pharmacy (Board). Respondent filed a request for a hearing.

2. Respondent was properly served with the Notice of Hearing at his address of record on file with the Board, which is the same address listed in his Notice of Defense. Proper jurisdiction was established over Respondent. Respondent's counsel, Mr. Weinberg, represented that respondent was not present as he was impaired due to psychological conditions, including that he has bipolar disorder, is in the transgender process and was paranoid as a reaction to the proceedings against him in criminal court. Respondent's father, Hussein Youssef, was present and testified. Mr. Weinberg had the opportunity to confer with respondent in the preparation of a defense. There is no absolute right of a respondent to be present at the hearing, particularly when his counsel is there to represent his interests. (*Arnett v. Office of Administrative Hearings* (1996) 49 Cal.App.4th 332, 339.) Under these circumstances, the hearing proceeded in respondent's absence.

3. On July 19, 2010, the Board issued Pharmacist license number RPH 64023 to respondent. The Pharmacist license was in full force and effect at all times relevant to the facts found below and will expire on November 30, 2017.

4. On September 29, 2014, respondent pled nolo contendere and was convicted of one felony count of violating Penal Code section 452, subdivision (b), fire of an inhabited dwelling. Imposition of sentence was suspended and respondent was placed on three years' formal probation, with conditions including that he serve 60 days in the Los Angeles County Jail (with credit for 30 days actual custody and 30 days good time/work time), pay restitution to the victim, register as a convicted arson offender, and pay fines and fees. The charges against respondent were amended pursuant to a plea agreement.

5. The circumstances surrounding the conviction are that, on April 28, 2013, the Los Angeles Police and Fire Departments (LAPD and LAFD) responded to a fire at respondent's condominium in Mission Hills. The LAFD report (exhibit 5) includes that respondent admitted to LAPD that he started the fire. The LAFD determined there were five areas where fires had been set: a window shade, a throw rug on the living room floor, a t-shirt on a coffee table in the living room, a t-shirt on a couch in the living room, and a corner of the bedding of the master bedroom. The burns were caused either by direct flame or by a flammable liquid. The LAFD arson investigator observed an empty bottle labeled "Firepot Fuel Gel" that smelled of alcohol and whose label stated it contained isopropyl alcohol. The investigator noted that two smoke alarms had the batteries removed. Nevertheless, the alarms were hard-wired and had activated the sprinkler system, which extinguished the fires. The investigator concluded the fires were intentionally set. The investigator interviewed respondent's father at the scene. Respondent's father told the investigator that respondent called him 45 minutes before the fires, requested help, and when the father arrived the fire had already started. Respondent told his father not to go into the condominium because it was dangerous. In response to his father's question of what happened, respondent said he left a cigarette burning. However, a neighbor reported to LAFD that he heard the smoke alarm and saw the fire, approached respondent and asked if a fire extinguisher was needed, and respondent said he meant to do it, he had insurance and not to worry about it.

6. On July 9, 2014, respondent was convicted on his pleas of nolo contendere to violating Penal Code section 653M, subdivision (b), annoying telephone calls, and Penal Code section 166A, subdivision (4), contempt of court, both misdemeanors. Imposition of sentence was suspended and respondent was placed on three years' informal probation, with conditions including that he attend 26 dual diagnosis counseling sessions and pay fines and fees. The pleas were pursuant to a plea agreement, whereby other charges were dismissed.

7. The circumstances surrounding the convictions are that, on February 5, 2013, respondent's ex-girlfriend TLP (initials are used to maintain confidentiality) complained to police of annoying phone calls, emails and text messages from respondent. Respondent and TLP had dated from October 2009 to May 2010. She had changed her cell phone number several times to keep respondent from contacting her, however respondent's phone and email contact resumed in January 2013, and respondent appeared at her house unannounced in February 2013. Criminal charges were filed on February 27, 2013. On March 28, 2013, the Court issued a protective order that respondent not annoy, harass or threaten TLP and stay at least 100 yards from her. On April 25, 2014, the court issued a bench warrant against respondent based on TLP's information that respondent recently contacted her by email. Subsequently the charges were amended by adding four counts of violation of a court order.

8. Board inspector Michael Cipili is a licensed pharmacist in California and Nevada, with 15 years of experience as a dispensing pharmacist and over one year of experience as an inspector. His testimony established that a licensed pharmacist has the leadership position in a pharmacy with responsibility to assure that the public is protected and all laws, regulations and policies are followed. Professional judgment is often needed. The pharmacist is usually unsupervised. The pharmacist would have access to patients' sensitive personal and medical information. Cipili expressed concern about the nature of the convictions experienced by respondent, as they show poor judgment, disregard for property and lives, disrespect to privacy and disregard of laws and rules.

9. Respondent's father, Houssein Youssef, testified credibly to respondent's personal and academic accomplishments, honors, and talents. He also testified to respondent's history of depression, Attention Deficit/Hyperactivity Disorder, medications for treatment, and a later diagnosis of bipolar disorder. At times not established by the evidence, respondent was taking prescribed hormones related to a transgender condition. In the period from October 2010 to October 2012, respondent worked for a retail pharmacy. His supervisor wrote that respondent conducted himself in a positive and professional manner (exhibit K). Since then he has not worked using his license. Respondent has lived with his parents, except for a two-year period when he lived in a condominium about two miles from his parents. It was during this time that he was engaged in the actions that resulted in the convictions.

10. As reported by respondent's psychiatrist, Dr. Shaulov (exhibit H), in November 2013, respondent was admitted to Northridge Hospital for ten days and then was admitted to Sovereign Health under Dr. Shaulov's care. His diagnoses included Bipolar

Disorder and Anxiety Disorder with features of PTSD (post-traumatic stress disorder). He was taking medications and considered stable. On February 22, 2014, respondent completed the dual diagnosis 90-day treatment program ordered by the court and continued in Dr. Shaolov's care. In March 2014 he began weekly psychotherapy with Christy Pareti, Psy.D., LMFT, who wrote in January 2015 (exhibit G) that respondent is a transgender male to female with a history of mixed episodes of depression, irritability and anxiety. He had improved and was motivated in treatment, and intended to continue treatment. In March 2015, Marilyn Viera, LCSW reported (exhibit I) that respondent received counseling from her in nine sessions beginning in January 2015. Viera was coordinating treatment with Dr. Shaolov, and indicated respondent would be seeing a new psychiatrist closer to his home. Neda Javaherian, M.D., wrote that respondent began psychiatric treatment with her in March 2015 and was most recently seen in January 2016, the same month she wrote her letter (exhibit J). Respondent was admitted to Northridge Hospital in April 2015 for adjustment of medications. After several days he voluntarily admitted himself to the Pasadena Recovery Center, described as a 12-step dual diagnosis facility to assist individuals with substance abuse issues (exhibit F). There was no other documentation of respondent's care at the Pasadena Recovery Center.

11. Respondent's father testified that respondent left the Pasadena Recovery Center after one week of treatment because he had negative drug test results. The letter was obtained to explain to respondent's probation officer that respondent missed a scheduled probation meeting due to the inpatient treatment program. Many of the other letters were obtained for submission to the criminal court. Respondent suffers from anxiety and indicated to Mr. Weinberg he could not attend the administrative hearing. He lives with his parents. Respondent's father asked Dr. Javaherian, the psychiatrist presently treating respondent, if respondent was able to work as a pharmacist; Dr. Javaherian responded that respondent was not ready. To his father's knowledge, under the care of Dr. Javaherian respondent has been weaned off of the medications he had taken previously. Respondent successfully petitioned the court to remove the requirement that he register as an arson offender, as the requirement did not relate to the law that he violated. Respondent's father expects respondent to seek a court order in September 2016 to reduce the felony conviction to a misdemeanor.

12. Complainant incurred costs for the investigation and enforcement of this case in the amount of \$4,997.50, based upon 23.75 hours at \$170 per hour by Deputies Attorney General, and 8.0 hours at \$120 per hour by paralegals (exhibit 3). There was some duplication of services, as the matter was initially assigned to Deputy Attorney General Sydney Mehringer who performed services and billed 3.75 hours.

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LEGAL CONCLUSIONS AND DISCUSSION

Based upon the foregoing factual findings, the Administrative Law Judges makes the following legal conclusions:

1. In this proceeding based on an Accusation, the burden of proof is on complainant to establish alleged violations by "clear and convincing proof to a reasonable certainty." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) This means the burden rests on complainant to establish the charging allegations by proof that is clear, explicit and unequivocal—so clear as to leave no substantial doubt, and sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.)

2. A licensed pharmacist may have discipline imposed against his license under Business and Professions Code¹ sections 490 and 4301, subdivision (1), and California Code of Regulations, title 16,² section 1770, for conviction of crimes substantially related to the qualifications, functions or duties of a pharmacy technician, as alleged in the First Cause for Discipline in the Accusation. Code section 4301 defines such a conviction as unprofessional conduct. Under Regulation 1770, a crime "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 registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

3. By setting small fires in his condominium, making annoying phone calls to TLP and ignoring a court order not to contact TLP, respondent demonstrated disregard to his property and the property and persons of neighbors; disregard to the rights and privacy of TLP; and disregard to the authority of the court. In each of these instances respondent exercised poor judgment and a lack of appreciation for the natural consequences of his actions. These actions provide evidence to a substantial degree of the present or potential unfitness of respondent to perform the functions authorized by his pharmacist license in a manner consistent with the public health, safety, or welfare. There is a substantial relationship between the crimes and the qualifications, functions or duties of a pharmacist.

4. Cause exists to suspend or revoke respondent's pharmacist license under Code sections 4301, subdivision (1), and 490, for conviction of crimes substantially related to the qualifications, functions or duties of a licensee, as set forth in Factual Findings 4 through 7.

¹ All statutory references are to the Business and Professions Code except where noted otherwise.

² All references to regulations are from the California Code of Regulations, title 16, and are referred to as "Regulation."

5. The second cause for discipline alleged in the Accusation is based on Code section 4301, subdivision (f), which states that the Board shall take action against any holder of a license who is guilty of unprofessional conduct, including “[t]he 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.”

6. Complainant contends that respondent’s conviction related to the fire is for a crime of moral turpitude, citing *People v. Miles* (1985) 172 Cal.App.3d 474 (*Miles*), where the crime of arson in violation of Penal Code section 451 was found to involve moral turpitude. This was based on the language of Penal Code section 451 that a person was guilty of arson “when he willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of, any structure, forest land or property.” (*Id.* at 481-482.) This offense necessarily involved “an ‘intent to do evil’ or, in other words, moral turpitude . . .” (*Id.*) Respondent however was convicted of violating Penal Code section 452, which states it applies when a person recklessly sets fire to a structure.

7. Therefore, *Miles* does not answer the question of whether respondent’s violation of Penal Code section 452 was a crime of moral turpitude. In *People v. Mazza* (1985) 175 Cal.App.3d 836, 842, the court stated: “Moral turpitude has been defined as a ‘readiness to do evil’ and as a ‘character trait which can reasonably be characterized as ‘immoral.’ An act of moral turpitude is ‘an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man or to society in general, contrary to the accepted and customary rule of right and duty between man and man’.” (Citations omitted.)

8. The disciplinary statute in question, Code section 4301, subdivision (f), refers to the commission of any act involving moral turpitude. Therefore, appropriate inquiry can go beyond the technical elements of the Penal Code statute for which respondent was convicted. The facts include that respondent told his neighbor that he meant to start the fire and had insurance, evidence of an intentional and careless attitude towards the danger of the fire and the consequences of the property damage. The LAFD investigator concluded that the fires were intentional, based in part on the five locations where the fires started and the flammable fuel found at the scene. Under all of the circumstances, the evidence supports the conclusion that respondent’s act of setting the fires was an act of moral turpitude.

9. Similarly, respondent’s actions in sending harassing text messages and emails and making harassing phone calls to TLP show a complete disregard of the private and social duties that one member of society owes to another, contrary to the accepted and customary rule of right and duty between persons. The violation of a direct court order shows a similar significant departure from good character and judgment. These are all acts of moral turpitude under the circumstances.

10. Cause exists to suspend or revoke Respondent's registration as a pharmacy technician under Code sections 4300 and 4301, subdivision (f), for committing acts involving moral turpitude, as set forth in Factual Findings 4 through 7.

11. The relevant criteria of rehabilitation are found in California Code of Regulations section 1769, subdivision (c), summarized as follows: (a) the nature and severity of the acts; (b) total criminal record; (c) the time that has elapsed since commission of the acts; (d) whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee; and (e) "[e]vidence, if any, of rehabilitation submitted by the licensee."

12. Of most significance, respondent's evidence of rehabilitation consists largely of his compliance with sentencing conditions imposed by the criminal court,³ and evidence of treatment for various diagnosed conditions. Despite letters indicating that respondent has improved, many such letters were followed by further hospitalization and admission to drug treatment programs. On this record it cannot be concluded that respondent has established rehabilitation. This is particularly so in light of the opinion of his present treating psychiatrist that respondent is not presently able to practice pharmacy.

13. Consideration has been given to the Board's Disciplinary Guidelines (rev. 10/07) (Guidelines). The Guidelines address, among other things, recommendations for discipline for certain enumerated statutory violations, such as conviction of a crime, as well as types of mitigation evidence. At the hearing, complainant argued for revocation of the license.

14. Respondent points out that, if the license is revoked, respondent cannot apply for reinstatement of the license until three years have passed. (See, Code section 4309.) Instead, respondent suggests that the Board order an indefinite suspension of respondent's license, until such time that respondent is ready to submit to a mental health examination by an examiner appointed by the Board. If respondent passes the examination, his right to practice can be restored under appropriate terms. Although a creative proposal in an unusual situation, the Board's statutory authority to order a license suspension is limited to one year under Code section 4300, subdivision (b)(3). There is insufficient evidence to conclude that respondent will be ready to submit to a mental health examination within one year. For this and other reasons, respondent's proposal is not considered.

15. Respondent presents a challenging scenario. Although the state of his mental health is not placed directly in issue by the Accusation, the evidence respondent submitted includes much evidence that his mental health has been precarious and that he is still in active treatment. This evidence can be considered under the criteria of rehabilitation. There is little competent evidence of sufficient rehabilitation by respondent that would support

³ Good behavior while on criminal probation is expected, and relatively little weight is given to it. (*In re Gossage* (2000) 28 Cal.4th 1080, 1099.)

continued licensure at this time. Under these circumstances, for the protection of the public health and safety, his license will be revoked.

16. Under Code section 125.3, the Board may request the administrative law judge to direct a licentiate found to have committed violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. As noted in Factual Finding 12, costs are claimed in the amount of \$4,997.50, which includes duplication of services of 3.75 hours. At \$170 per hour, the duplication accounts for \$637.50. Subtracted from the total costs ($4,997.50 - 637.50 = 4,360$), the reasonable costs of enforcement are \$4,360. The Guidelines permit an order to delay recovery of costs until respondent seeks reinstatement of his license.

ORDER

Pharmacist license number RPH 64023 issued to respondent Ali Hussein Youssef is revoked. Respondent shall relinquish his wall license and pocket renewal license to the Board within 10 days of the effective date of this decision.

As a condition precedent to reinstatement of his revoked license, respondent shall reimburse the Board for its costs of enforcement in the amount of \$4,360. This amount shall be paid in full prior to the reapplication or reinstatement of his license unless a payment plan is approved by the Board.

DATED: March 10, 2016

DocuSigned by:
David B. Rosenman
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DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 LINDA L. SUN
Supervising Deputy Attorney General
4 State Bar No. 207108
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6375
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **ALI HUSSEIN YOUSSEF**
13 11551 Rancho del Valle
14 Granada Hills, CA 91344
15 Pharmacist License No. RPH 64023
16 Respondent.

Case No. 5122
A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about July 19, 2010, the Board of Pharmacy (Board) issued Pharmacist License
22 No. RPH 64023 to Ali Hussein Youssef (Respondent). The Pharmacist License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on November 30,
24 2015, unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.
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STATUTORY PROVISIONS

4. Section 490 states, in pertinent part:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code.

5. Section 493 states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question. As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

6. Section 4300 provides that every license issued by the Board is subject to discipline, including suspension or revocation.

7. Section 4300.1 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.

8. Section 4301 states, in pertinent part:

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

5 (f) The commission of any act involving moral turpitude, dishonesty,
6 fraud, deceit, or corruption, whether the act is committed in the course of relations as
7 a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

8 (l) The conviction of a crime substantially related to the qualifications,
9 functions, and duties of a licensee under this chapter. The record of conviction of a
10 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
11 States Code regulating controlled substances or of a violation of the statutes of this
12 state regulating controlled substances or dangerous drugs shall be conclusive evidence
13 of unprofessional conduct. In all other cases, the record of conviction shall be
14 conclusive evidence only of the fact that the conviction occurred. The board may
15 inquire into the circumstances surrounding the commission of the crime, in order to fix
16 the degree of discipline or, in the case of a conviction not involving controlled
17 substances or dangerous drugs, to determine if the conviction is of an offense
18 substantially related to the qualifications, functions, and duties of a licensee under this
19 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
20 contendere is deemed to be a conviction within the meaning of this provision. The
21 board may take action when the time for appeal has elapsed, or the judgment of
22 conviction has been affirmed on appeal or when an order granting probation is made
23 suspending the imposition of sentence, irrespective of a subsequent order under
24 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
25 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
26 dismissing the accusation, information, or indictment.

27 REGULATORY PROVISION

28 9. California Code of Regulations, title 16, section 1770, states, in pertinent part:

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

10 COST RECOVERY

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

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FIRST CAUSE FOR DISCIPLINE

(Convictions of Substantially Related Crimes)

11. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision (I), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent has been convicted of crimes substantially related to the qualifications, functions or duties of a pharmacist, as follows:

a. On or about September 29, 2014, Respondent was convicted of one felony count of violating Penal Code section 452, subdivision (b) [fire of an inhabited structure or property] in the criminal proceeding entitled *The People of the State of California v. Ali Hussein Youssef* (Super. Ct. L.A. County, 2014, No. PA076783). The Court sentenced Respondent to serve 60 days in Los Angeles County Jail and placed him on 3 years formal probation, with terms and conditions, including registration as a convicted arson offender. The circumstances surrounding the conviction are that on or about on or about April 28, 2013, Respondent intentionally set his own apartment unit on fire located at 15601 Odyssey Dr., Unit 4, in Granada Hills.

b. On or about July 29, 2014, Respondent was convicted of one misdemeanor count of violating Penal Code section 653M, subdivision (b) [annoying telephone calls] and one misdemeanor count of Penal Code section 166A, subdivision (4) [contempt of court] in the criminal proceeding entitled *The People of the State of California v. Ali Hussein Youssef* (Super. Ct. L.A. County, 2014, No. 3PK00871). The Court placed Respondent on 3 years probation with terms and conditions. The circumstances surrounding the conviction are that from on or about January 21, 2013 to on or about February 5, 2013, Respondent made annoying and harassing telephone calls, sent texts messages, and emails to the victim, an ex-girlfriend. On or about April 25, 2014, Respondent violated the protective order.

SECOND CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

