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. 1	KAMALA D. HARRIS		
2	Attorney General of California MARC D. GREENBAUM		
3	Supervising Deputy Attorney General KIMBERLEY J. BAKER-GUILLEMET		
4	Supervising Deputy Attorney General State Bar No. 242920		
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
6	Telephone: (213) 897-2533 Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	STATE OF C	CALIFORNIA	
11	In the Matter of the Accusation Against:	Case No. 3642	
12	AIDA NAGHASHIAN	ACCUSATION	
13	a.k.a., AIDA KADIJA NAGHASHIAN a.k.a., AIDA NAGHASUIAN P.O. Box 882		
14	Huntington Park, CA 90255		
15	Pharmacy Technician License No. TCH 22309		
16	Respondent.		
17			
18	Complainant alleges:		
19	<u>PARTIES</u>		
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
21	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
22	2. On or about May 15, 1997, the Board issued Pharmacy Technician License No.		
23	TCH 22309 to Aida Naghashian, also known as Aida Kadija Naghashian, and Aida Naghasuian		
24	(Respondent). The Pharmacy Technician License was in full force and effect at all times relevan		
25	to the charges brought herein and will expire on December 31, 2012, unless renewed.		
26	<u>JURISDICTION</u>		
27	3. This Accusation is brought before the Board under the authority of the following		
28	laws. All section references are to the Business and Professions Code unless otherwise indicated		

1.

#### STATUTORY PROVISIONS

- 4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
  - 5. 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."
- 6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.
  - 7. Section 4301 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.

. . . .

- "(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
- "(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.

. . . .

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.

. . . .

- "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency."
  - 8. Section 4324, subdivision (a) states:

"Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more that one year."

# REGULATORY PROVISIONS

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."

#### **COST RECOVERY**

10. Section 125.3 states, 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.

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#### 11. <u>DANGEROUS DRUGS</u>

- a. "ProAir," is the brand name for Albuterol. It is used for the relief and prevention of airway obstruction (bronchospasm) in patients with asthma or exercise—induced asthma and is categorized as a dangerous drug pursuant to section 4022.
- b. "Retin-A," is the brand name for Tretinoin. It is used for treating mild to moderate acne, fine wrinkles, and hyperpigmentation and is categorized as a dangerous drug pursuant to section 4022.

# FIRST CAUSE FOR DISCIPLINE

## (Conviction of a Substantially Related Crime)

12. Respondent is subject to disciplinary action under sections 4301, subdivision (1) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician. On or about January 4, 2007, after pleading nolo contendere. Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152 subdivision (b) [driving while having 0.08% and more, by weight, of alcohol in her blood] in the criminal proceeding entitled The People of the State of California v. Aida Naghasuian (Super. Ct. Sonoma County, 2007, No. SCR503410). The Court sentenced Respondent to serve two (2) days in Sonoma County Jail and placed her on 36 months probation, with terms and conditions. The circumstances surrounding the conviction are that on or about December 16, 2006, during a traffic stop by the Santa Rosa Police Department, Respondent was contacted. While speaking to Respondent, the officer detected a strong odor of an alcoholic beverage emitting from her breath. In addition, she was observed to have slow slurred speech. When asked if she had been drinking, Respondent admitted to drinking an alcoholic beverage. During the booking procedure, Respondent submitted to a blood test that yielded a sample containing a blood-alcohol content level of 0.11%. ///

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#### SECOND CAUSE FOR DISCIPLINE

# (Dangerous Use of Alcohol)

13. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that on or about December 16, 2006, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself, another person, or the public, when she operated a vehicle while having approximately 0.11% of alcohol in her blood. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as though set forth fully.

# THIRD CAUSE FOR DISCIPLINE

#### (Forged Prescriptions)

14. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and (o), for violating section 4324, subdivision (a), in that Respondent forged prescriptions without a prescriber's authorization. At the time of the misconduct, Respondent was employed as a pharmacy technician at Walgreens Drug Store (Walgreens), in Santa Rosa, California. She had been an employee there for approximately five (5) years. On or about January 31, 2008, during an interview with a Walgreens loss prevention agent and a Walgreens loss prevention supervisor, Respondent was confronted regarding unauthorized refills to her prescriptions at Walgreens. Respondent admitted to filling prescriptions for both her mother and herself using terminals that had been signed on by other employees, including both pharmacists and technicians. She subsequently admitted to filling prescriptions five (5) to ten times for Retin-A, Albuterol, and birth control. In addition, Respondent admitted to filling prescriptions for ProAir monthly, during the previous six (6) months.

#### **FOURTH CAUSE FOR DISCIPLINE**

## (Dishonest Acts, Fraud, or Deceit)

15. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that Respondent committed dishonest acts by manipulating the Walgreens computer system and filled or caused to be filled prescriptions for herself and her mother for dangerous drugs, without

1	a prescriber's authorization. Complainant refers to, and by this reference incorporates, the	
2	allegations set forth above in paragraph 14, as though fully set forth.	
3	PRAYER	
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
5	and that following the hearing, the Board issue a decision:	
6	1. Revoking or suspending Pharmacy Technician License No. TCH 22309, issued to	
.7	Respondent;	
8	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and	
9	enforcement of this case, pursuant to section 125.3; and	
10	3. Taking such other and further action as deemed necessary and proper.	
11	DATED: 8/22/11 Juginia Leed	
12	Executive Officer	
13	Board of Pharmacy Department of Consumer Affairs State of California	
14	Complainant	
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