

1 XAVIER BECERRA  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
4 State Bar No. 132645  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9409  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*  
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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 5991

12 **AMAR RAVJI LUNAGARIA**  
13 **830 S. Peralta Hills Dr.**  
14 **Anaheim, CA 92807**

**A C C U S A T I O N**

15 **Intern Pharmacist Registration**  
16 **No. INT 35187**

Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about December 17, 2014, the Board issued Intern Pharmacist Registration  
23 Number INT 35187 to Amar Ravji Lunagaria (Respondent). The Intern Pharmacist Registration  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 May 31, 2018, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a) of the Code states: "Every license issued may be  
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
9 operation of law or by order or decision of the board or a court of law, the placement of a  
10 license on a retired status, or the voluntary surrender of a license by a licensee shall not  
11 deprive the board of jurisdiction to commence or proceed with any investigation of, or  
12 action or disciplinary proceeding against, the licensee or to render a decision suspending  
13 or revoking the license.

12 **STATUTORY PROVISIONS**

13 6. Section 477, subdivision (b) of the Code provides that "license" includes certificate,  
14 registration or other means to engage in a business or profession regulated by this code.

15 7. Section 482 of the Code states:

16 Each board under the provisions of this code shall develop criteria to evaluate the  
17 rehabilitation of a person when:

18 (a) Considering the denial of a license by the board under Section 480; or

19 (b) Considering suspension or revocation of a license under Section 490.

20 Each board shall take into account all competent evidence of rehabilitation furnished  
21 by the applicant or licensee.

22 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
23 revoke a license on the ground that the licensee has been convicted of a crime substantially related  
24 to the qualifications, functions, or duties of the business or profession for which the license was  
25 issued.

26 9. Section 493 of the Code states:

27 Notwithstanding any other provision of law, in a proceeding conducted by a board  
28 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

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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."

10. 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 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

(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.

...

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(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. . .

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1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1769, subdivision (b) states:

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

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

8 (2) Total criminal record.

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

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

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

13 12. California Code of Regulations, title 16, section 1770, states:

14 For the purpose of denial, suspension, or revocation of a personal or facility license  
15 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions  
16 Code, a crime or act shall be considered substantially related to the qualifications,  
17 functions or duties of a licensee or registrant if to a substantial degree it evidences present  
18 or potential unfitness of a licensee or registrant to perform the functions authorized by his  
19 license or registration in a manner consistent with the public health, safety, or welfare.

20 **COSTS**

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

27 **FIRST CAUSE FOR DISCIPLINE**

28 **(January 25, 2017 Criminal Conviction for DUI on July 10, 2016)**

14. Respondent has subjected his registration to discipline under sections 490 and 4301(1)  
of the Code in that he was convicted of a crime that is substantially related to the qualifications,  
duties, and functions of an intern pharmacist. The circumstances are as follows:

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1           a.     On January 25, 2017, in a criminal proceeding entitled *People of the State of*  
2 *California v. Amar R. Lunagaria*, in Sacramento County Superior Court, case number  
3 16MI014022, Respondent was convicted on his plea of nolo contendere to violating Vehicle Code  
4 section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.8 percent or  
5 more, a misdemeanor, and that Respondent was previously convicted of the same offense within  
6 the prior ten years, pursuant to Vehicle Code sections 23546, 23548, and 23550. Respondent  
7 admitted, and the court found true that Respondent's BAC was 0.15 percent or more, pursuant to  
8 Vehicle Code section 23578.

9           b.     As a result of the conviction, Respondent was granted informal probation for  
10 four years, and sentenced to serve 16 days in the county jail, with pre-custody credit for one day,  
11 to be served on the Work Release Program. Respondent was ordered to complete an 18-month  
12 Multiple Offender DUI Program, pay fines and fees, and comply with the DUI probation terms.  
13 The court assessed Respondent's BAC at 0.18 percent.

14           c.     The facts that led to the conviction are that at approximately 2:20 a.m. on July  
15 10, 2016, officers with the California Highway Patrol (CHP) observed Respondent enter a freeway  
16 and accelerate to a high rate of speed. The CHP officers followed Respondent and paced his  
17 speed at 86 miles per hour. Respondent was observed straddling lanes for approximately .25  
18 miles. The officers signaled Respondent to stop. Respondent exited the freeway, failed to stop at  
19 a red signal light, and pulled into a restaurant parking lot. When contacting Respondent at his  
20 vehicle, the officer immediately detected the odor of alcohol. Respondent's eyes were red and  
21 watery, and his speech was slurred. Respondent stumbled out of his vehicle. Respondent  
22 submitted to a series of field sobriety tests which he was unable to complete as explained and  
23 demonstrated by the CHP officer. Respondent provided two breath samples that were analyzed by  
24 the preliminary alcohol screening device with a BAC of .226 and .224 percent, respectively.  
25 Respondent was arrested for driving under the influence. Nearly 45 minutes later, while processing at  
26 the main jail, Respondent provided two additional breath samples that were analyzed with a BAC of  
27 0.18 percent.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 15. Respondent has subjected his registration to disciplinary action under section 4301(h)  
4 of the Code for unprofessional conduct in that on or about July 10, 2016, as described in  
5 paragraph 14, above, Respondent operated a motor vehicle while impaired by alcohol.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(More Than One Misdemeanor Conviction for Alcohol-Related Criminal Offenses)**

8 16. Respondent has subjected his registration to disciplinary action under section 4301(k)  
9 of the Code for unprofessional conduct in that he has been convicted of more than one  
10 misdemeanor involving the use of alcoholic beverages, as described in paragraph 14, above, and  
11 paragraph 17, below.

12 **DISCIPLINARY CONSIDERATIONS**

13 17. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant  
14 to California Code of Regulations, title 16, section 1769, Complainant alleges:

15 a. On or about October 23, 2013, in a criminal proceeding entitled *People of the*  
16 *State of California v. Amar Lunagaria*, in San Joaquin County Superior Court, case number  
17 ST061946A, Respondent was convicted on his plea of nolo contendere to violating Vehicle Code  
18 section 23152, subdivision (b), driving with a BAC of .08 percent or more, a misdemeanor. The  
19 court dismissed an additional count of driving under the influence of alcohol (Veh. Code, §  
20 23152(a)) pursuant to a plea agreement.

21 b. As a result of the conviction, Respondent was granted conditional probation for  
22 three years, and sentenced to serve two days in jail, with pre-custody credit for one day.  
23 Respondent was ordered to complete a three-month First Offender Program, pay fines and fees,  
24 and to comply with DUI probation terms.

25 c. The facts that led to the conviction were that shortly before 2:30 a.m., on  
26 August 24, 2013, the Stockton Police Department was dispatched to a report of a single-vehicle  
27 collision. Upon making contact with Respondent, officers observed the smell of alcohol on his  
28 person, and his eyes were red and watery. Respondent told the officers that he lost control while

1 making a turn and went off the road. The officers observed a stop sign, a street light pole, and a  
2 fire hydrant that were all sheared off at their bases, and damage to a brick planter and fence.  
3 Respondent's vehicle had severe paint, body, and fender damage. Respondent admitted  
4 consuming alcohol prior to driving. Respondent provided one breath sample that was analyzed  
5 with a BAC of .15 percent. Respondent was arrested for driving under the influence.

6 **PRAYER**

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

- 9 1. Revoking or suspending Intern Pharmacist Registration Number INT 35187, issued to  
10 Amar Ravji Lunagaria;
- 11 2. Ordering Amar Ravji Lunagaria to pay the Board of Pharmacy the reasonable costs of  
12 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
13 125.3; and,
- 14 3. Taking such other and further action as deemed necessary and proper.

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16 DATED: \_\_\_\_\_

3/31/17



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

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