

1 XAVIER BECERRA
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JARVIS
Deputy Attorney General
4 State Bar No. 258229
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5403
Facsimile: (916) 327-8643
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:

Case No. 6031

12 **AMER LATIF NAIK**
13 **2210 N. Schnoor Street, Apt. 207**
Madera, CA 93637

A C C U S A T I O N

14 **Intern Pharmacist Registration No. INT 35312**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about February 17, 2015, the Board issued Intern Pharmacist Registration
22 Number INT 35312 to Amer Latif Naik ("Respondent"). The intern pharmacist registration was
23 in full force and effect at all times relevant to the charges brought herein and will expire on May
24 31, 2019, unless renewed.

25 **JURISDICTION/STATUTORY PROVISIONS**

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 ("Code") unless otherwise
28 indicated.

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4. Code section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper . . .

5. Code 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.

6. Code section 4301 states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct . . . 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

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

8 COST RECOVERY

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

13 FIRST CAUSE FOR DISCIPLINE

14 (Criminal Conviction)

15 8. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
16 Code section 4301, subdivision (l), in that on or about September 7, 2016, in the criminal
17 proceeding entitled *People vs. Amer Latif Naik* (Fresno County Super. Ct., Case No.
18 M16919718), Respondent was convicted by the court, on his plea of nolo contendere, of violating
19 Vehicle Code section 23152, subdivision (b) (misdemeanor driving with a 0.08% or higher blood
20 alcohol level), a crime substantially related to the qualifications, functions, and duties of an intern
21 pharmacist. Respondent stipulated that his blood alcohol level was 0.14 percent. Respondent
22 also admitted the enhancement pursuant to Vehicle Code section 23540 in that the current offense
23 occurred within ten years of Respondent's conviction for wet/reckless driving on December 12,
24 2007, in Fresno County Superior Court, Case No. 079253, as more particularly set forth in
25 paragraph 11 below. The imposition of Respondent's sentence was suspended and Respondent
26 was placed on probation for 3 years on terms and conditions, including that he attend and
27 complete an 18 Month Alcohol Program. Respondent was also ordered to serve 10 days in the
28 Fresno County Jail. The circumstances of the crime are as follows: On or about November 20,

1 2015, Officer A. of the Fresno Police Department was dispatched to the area of Blackstone and
2 McKinley to assist another officer with a possible DUI. Upon arrival, Officer A. contacted the
3 driver, who was later identified as Respondent. Officer A. asked Respondent how much he had to
4 drink that night. Respondent admitted that he consumed two 16 ounce IPA beers. Officer A.
5 could smell a strong odor of an alcoholic beverage coming from Respondent's breath.
6 Respondent also had bloodshot, watery eyes and slurred speech. Officer A. administered field
7 sobriety tests, then placed Respondent under arrest for driving under the influence of alcohol.
8 Later, Respondent underwent a breath test. Respondent's blood alcohol content results were .15
9 percent at 0021 hours and .15 percent at 0024 hours.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Use of Alcoholic Beverages to an Extent or in a Manner**

12 **Dangerous or Injurious to Oneself, Others and the Public)**

13 9. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
14 Code section 4301, subdivision (h), in that Respondent used alcoholic beverages to an extent or in
15 a manner dangerous or injurious to himself, others, and the public, as set forth in paragraph 8
16 above.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Conviction of More than one Misdemeanor**

19 **Involving the Consumption of Alcoholic beverages)**

20 10. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
21 Code section 4301, subdivision (k), in that Respondent has been convicted of more than one
22 misdemeanor involving the consumption of alcoholic beverages, as set forth in paragraph 8 above
23 and 11 below.

24 **MATTERS IN AGGRAVATION**

25 11. To determine the degree of discipline to be assessed against Respondent, if any,
26 Complainant alleges as follows:

27 a. On or about October 2, 2014, the Board received an application for an intern
28 pharmacist registration from Respondent. Respondent admitted on his application that he had

1 been convicted of a crime. On or about December 12, 2007, in Fresno County Superior Court,
2 Case No. M07925348, Respondent was convicted by the court, on his plea of nolo contendere, of
3 violating Vehicle Code section 23103, subdivision (a), pursuant to 23103.5 (wet/reckless driving),
4 a misdemeanor. On or about February 17, 2015, the Board issued Respondent an intern
5 pharmacist registration, as set forth in paragraph 2 above.

6 b. On or about October 4, 2016, the Board issued Citation and Fine No. CI 2014 65994
7 against Respondent for violating Code section 4301, subdivisions (h) (use of alcoholic beverages
8 to an extent or in a manner dangerous or injurious to oneself, others and the public), (k)
9 (conviction of more than one misdemeanor involving the consumption of alcoholic beverages),
10 and (l) (conviction of crimes substantially related to the practice of pharmacy). The citation was
11 based on Respondent's conviction of December 12, 2007, set forth in subparagraph (a) above, and
12 on the following: On or about September 21, 2016, in Madera County Superior Court, Case No.
13 CCR050923, Respondent was convicted by the court, on his plea of nolo contendere, of violating
14 Vehicle Code section 23152, subdivision (b) (driving a vehicle while having 0.08 percent and
15 more, by weight, of alcohol in his blood), a misdemeanor. The Board ordered Respondent to pay
16 a fine of \$1,700 by November 3, 2016. Respondent complied with the citation on November 7,
17 2016.

18 **PRAYER**

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

21 1. Revoking or suspending Intern Pharmacist Registration Number INT 35312, issued to
22 Amer Latif Naik;

23 2. Ordering Amer Latif Naik to pay the Board of Pharmacy the reasonable costs of the
24 investigation and enforcement of this case, pursuant to Business and Professions Code section
25 125.3; and

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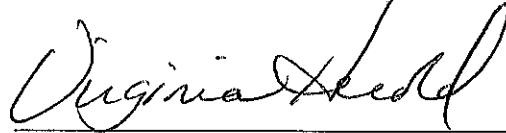
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3. Taking such other and further action as deemed necessary and proper.

DATED:

4/24/17



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

SA2017105030