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8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against:	Case No. 4999	
12	MATTHEW JAMES VEINTIMILLA		
13	2451 W. 248th Street Lomita, CA 90717	ACCUSATION	
14	Intern Pharmacist License No. 21434		
15	Respondent.		
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17	Complainant alleges:		
18	PART	IES	
19	1. Virginia Herold (Complainant) brings	this Accusation solely in her official capacity	
20	as the Executive Officer of the Board of Pharmacy	, Department of Consumer Affairs.	
21	2. On or about October 6, 2007, the Boar	d of Pharmacy issued Intern Pharmacist	
22	License Number 21434 to Matthew James Veintimilla (Respondent). The Intern Pharmacist		
23	License was cancelled on June 27, 2013, and has n	ot been renewed.	
24	JURISDI	CTION	
25	3. This Accusation is brought before the	Board of Pharmacy (Board), Department of	
26	Consumer Affairs, under the authority of the follow	wing laws. All section references are to the	
27	Business and Professions Code unless otherwise indicated.		
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4. Section 490 of the Code states:

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"(a) In addition to any other action that a board is permitted to take against a licensee, a 2 board may suspend or revoke a license on the ground that the licensee has been convicted of a 3 crime, if the crime is substantially related to the qualifications, functions, or duties of the business 4 or profession for which the license was issued. 5

"(b) Notwithstanding any other provision of law, a board may exercise any authority to 6 discipline a licensee for conviction of a crime that is independent of the authority granted under 7 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties 8 of the business or profession for which the licensee's license was issued. 9

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a 10 conviction following a plea of nolo contendere. Any action that a board is permitted to take 11 following the establishment of a conviction may be taken when the time for appeal has elapsed, or 12 the judgment of conviction has been affirmed on appeal, or when an order granting probation is 13 made suspending the imposition of sentence, irrespective of a subsequent order under the 14 provisions of Section 1203.4 of the Penal Code. 15

"(d) The Legislature hereby finds and declares that the application of this section has been 16 made unclear by the holding in Petropoulos v. Department of Real Estate (2006) 142 Cal.App.4th 17 554, and that the holding in that case has placed a significant number of statutes and regulations 18 in question, resulting in potential harm to the consumers of California from licensees who have 19 been convicted of crimes. Therefore, the Legislature finds and declares that this section 20establishes an independent basis for a board to impose discipline upon a licensee, and that the 21 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change 22 to, but rather are declaratory of, existing law." 23

Section 118, subdivision (b), of the Code provides that the

5. 24 suspension/expiration/surrender/cancellation of a license shall not deprive the 25 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period 26 within which the license may be renewed, restored, reissued or reinstated. 27

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6. Section 4300(a) of the Code states that every license issued by the Board may be 1 suspended or revoked. 2 7. Section 4300.1 of the Code states: 3 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by 4 operation of law or by order or decision of the board or a court of law, the placement of a license 5 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board 6 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary 7 proceeding against, the licensee or to render a decision suspending or revoking the license." 8 STATUTORY PROVISIONS 9 8. Section 4301 of the Code states: 10 "The board shall take action against any holder of a license who is guilty of unprofessional 11 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. 12 Unprofessional conduct shall include, but is not limited to, any of the following: 13 14 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous 15 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to 16 oneself, to a person holding a license under this chapter, or to any other person or to the public, or 17 to the extent that the use impairs the ability of the person to conduct with safety to the public the 18 practice authorized by the license. 19 20 "(k) The conviction of more than one misdemeanor or any felony involving the use, 21 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any 22 combination of those substances. 23 "(1) The conviction of a crime substantially related to the qualifications, functions, and 24 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 25 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 26 substances or of a violation of the statutes of this state regulating controlled substances or 27 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 28 3 Accusation

record of conviction shall be conclusive evidence only of the fact that the conviction occurred. 1 The board may inquire into the circumstances surrounding the commission of the crime, in order 2 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or 3 dangerous drugs, to determine if the conviction is of an offense substantially related to the 4 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 5 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning 6 of this provision. The board may take action when the time for appeal has elapsed, or the 7 judgment of conviction has been affirmed on appeal or when an order granting probation is made 8 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 9 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not 10 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 11 indictment." 12 13 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the 14 violation of or conspiring to violate any provision or term of this chapter or of the applicable 15 federal and state laws and regulations governing pharmacy, including regulations established by 16 the board or by any other state or federal regulatory agency. 17 "(p) Actions or conduct that would have warranted denial of a license." 18 **REGULATORY PROVISIONS** 19 9. California Code of Regulations, title 16, section 1770, states: 20 "For the purpose of denial, suspension, or revocation of a personal or facility license 21 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a 22 crime or act shall be considered substantially related to the qualifications, functions or duties of a 23 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a 24 licensee or registrant to perform the functions authorized by his license or registration in a manner 25 consistent with the public health, safety, or welfare." 26 111 27 111 28 4 Accusation

1	COST RECOVERY	
2	10. Section 125.3 of the Code states, in pertinent part, that the Board may request the	
.3	administrative law judge to direct a licentiate found to have committed a violation or violations of	
4	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and	
5	enforcement of the case.	
6	FIRST CAUSE FOR DISCIPLINE	
7	(Substantially Related Conviction)	
8	11. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision	
9	(1) of the Code, in conjunction with California Code of Regulation, title 16, section 1770, in that	
10	Respondent was convicted of crimes substantially related to the qualifications, functions or duties	
11	of an intern pharmacist.	
12	12. On or about August 16, 2013, after pleading nolo contendere, Respondent was	
13	convicted of one (1) misdemeanor count of violating Vehicle Code section 23152, subdivision (a)	
14	[driving under the influence of alcohol] and one (1) misdemeanor count of violating Vehicle Code	
15	section 23152, subdivision (b) [driving with a blood-alcohol content level greater than or equal to	
16	.08%] in the criminal proceeding entitled The People of the State of California v. Matthew James	
17	Veintimilla (Super. Ct. Kern County, 2013, No. BM817669A). Respondent was sentenced to 150	
18	days in jail, 52 weeks of alcohol counseling, ordered to pay a fine and placed on summary	
19	probation for a period of 3 years with terms and conditions. The circumstances are as follows:	
20	13. On or about February 2, 2013, a California Highway Patrol Officer responded to a call	
21	of a possible DUI driver that was driving on the wrong side of the road. The officer observed	
22	Respondent's vehicle stop on a dirt shoulder of the road. As the officer made contact with	
23	Respondent, he detected the odor of an alcoholic beverage emitting from within the vehicle.	
24	Also, the officer observed that Respondent's eyes were red and smell the odor of an alcoholic	
25	beverage emitting from Respondent breath and person. In addition, Respondent was unable to	
26	satisfactorily perform the Field Sobriety Tests.	
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SECOND CAUSE FOR DISCIPLINE

(Substantially Related Conviction)

14. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
(1) of the Code, in conjunction with California Code of Regulation, title 16, section 1770, in that
Respondent was convicted of crimes substantially related to the qualifications, functions or duties
of an intern pharmacist.

15. On or about August 16, 2013, after pleading nolo contendere, Respondent was 7 convicted of one (1) misdemeanor count of violating Vehicle Code section 23152, subdivision (a) 8 [driving under the influence of alcohol] and one (1) misdemeanor count of violating Vehicle Code 9 section 23152, subdivision (b) [driving with a blood-alcohol content level greater than or equal to 10 .08%] in the criminal proceeding entitled The People of the State of California v. Matthew James 11 Veintimilla (Super. Ct. Kern County, 2013, No. BM819026A). Respondent was sentenced to 150 12 days in jail, 52 weeks of alcohol counseling, ordered to pay a fine and placed on summary 13 probation for a period of 3 years with terms and conditions. The circumstances are as follows: 14 16. On or about February 13, 2013, a California Highway Patrol Officer responded to a 15 call of a traffic collision with property damage. The officer contacted Respondent and 16 immediately observed objective signs of intoxication. Respondent admitted that he was driving 17 during the collision. The officer noticed that Respondent's speech was slow and slurred. 18 Respondent admitted to the officer that he had consumed four (4), twelve ounce beers. In 19 addition, Respondent was unable to satisfactorily perform the Field Sobriety Tests. Respondent 20 submitted to breath test which yielded results of 0.151% and 0.154% respectively. 21 THIRD CAUSE FOR DISCIPLINE 22 (Substantially Related Conviction) 23 Respondent is subject to disciplinary action under sections 490 and 4301, subdivision 17. 24 (I) of the Code, in conjunction with California Code of Regulation, title 16, section 1770, in that 25 Respondent was convicted of crimes substantially related to the qualifications, functions or duties 26 of an intern pharmacist. 27

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1	18. On or about August 16, 2013, after pleading nolo contendere, Respondent was	
2	convicted of one (1) misdemeanor count of violating Vehicle Code section 23152, subdivision (a	
3	[driving under the influence of alcohol] and one (1) misdemeanor count of violating Vehicle Code	
4	section 23152, subdivision (b) [driving with a blood-alcohol content level greater than or equal to	
5	.08%] in the criminal proceeding entitled The People of the State of California v. Matthew James	
6	Veintimilla (Super. Ct. Kern County, 2013, No. BM819413A). Respondent was sentenced to 150	
7	days in jail, 52 weeks of alcohol counseling, ordered to pay a fine and placed on summary	
8	probation for a period of 3 years with terms and conditions. The circumstances are as follows:	
9	19. On or about March 10, 2013, a California Highway Patrol Officer observed	
10	Respondent's vehicle travel with a left front spare tire that was flat and was driving on the rim.	
11	The officer conducted an enforcement stop of Respondent's vehicle. The officer contacted	
12	Respondent and requested his driver's license, proof of vehicle insurance and vehicle registration.	
13	Respondent failed to produce any of the items requested. The officer noticed objective signs of	
14	alcohol intoxication and asked Respondent if he had consumed alcoholic beverage prior to	
15	driving. Respondent admitted to the officer that he had consumed three (3) Firestone IPAs prior	
16	to driving. Respondent was unable to satisfactorily perform the Field Sobriety Tests. Respondent	
17	submitted to breath test which yielded results of 0.15% and 0.14% respectively. Respondent	
18	submitted to a blood test that resulted in a blood-alcohol content level of 0.15%.	
19	FOURTH CAUSE FOR DISCIPLINE	
20	(Substantially Related Conviction)	
21	20. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision	
22	(1) of the Code, in conjunction with California Code of Regulation, title 16, section 1770, in that	
23	Respondent was convicted of crimes substantially related to the qualifications, functions or duties	
24	of an intern pharmacist.	
25	21. On or about August 16, 2013, after pleading nolo contendere, Respondent was	
26	convicted of one (1) misdemeanor count of violating Vehicle Code section 23152, subdivision (a)	
27	[driving under the influence of alcohol] and one (1) misdemeanor count of violating Vehicle Code	
28	section 23152, subdivision (b) [driving with a blood-alcohol content level greater than or equal to	
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.08%], one (1) misdemeanor count of violating Vehicle Code section 20002, subdivision (a) [hit 1 and run resulting in property damage], one (1) misdemeanor count of violating Penal Code 2 section 594, subdivision (b)(1) [vandalism \$400 or more], one (1) misdemeanor count of violating 3 Penal Code section 148, subdivision (a)(1) [obstruct/resist/etc public/peace officer/emergency 4 med te] and one (1) misdemeanor count of violating Penal Code section 241, subdivision (c) 5 [assault on peace officer/firefighter] in the criminal proceeding entitled The People of the State of 6 California v. Matthew James Veintimilla (Super. Ct. Kern County, 2013, No. BM819857A). 7 Respondent was sentenced to 730 days in jail, ordered to pay a fine and placed on summary 8 probation for a period of 3 years with terms and conditions. The circumstances are as follows: 9

22. On or about March 25, 2013, the Bakersfield Police Department received a report of a 10 hit and run. At the same time a called was received and reported an unknown subject was forcing 11 entry into their residence. Officers arrived at the residence and located Respondent inside the 12 residence and had to use force to take him into custody. The officer observed Respondent's 1995 13 green Geo Prizm, which had moderate front end damage. The officer located silver paint transfer 14 on the front passenger side bumper and fender and had small pieces of red brick on the front 15 bumper and hood area. The officer inspected Respondent's vehicle and observed the keys were 16 still in the ignition, in the position and there was vomit on the driver's seat and driver's side door. 17 The officer inspected victim's 2004 silver Chrysler Pacifica and located minor damage to the rear 18 driver's side bumper and quarter panel of the vehicle. There was green paint transfer on the rear 19 bumper and quarter panel of victim's vehicle. The officer inspected the victim's brick mailbox 20 and observed that it had been knocked out of the ground and partially destroyed. The color of the 21 brick was identical to the red brick fragments located on Respondent's vehicle. 22

23 23. The officer contacted Respondent and noticed he had red bloodshot watery eyes,
slurred speech and the odor of alcoholic beverages on his breath. Respondent admitted to the
officer that he had consumed "a few beers" prior to driving. Respondent was unable to
satisfactorily perform the Field Sobriety Tests. Respondent submitted to breath test which yielded
a blood alcohol content of 0.13%.

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1	24. On or about March 25, 2013, Bakersfield Police Department Police Officers were	
2	dispatched to an apartment regarding a possible burglary to an occupied residence in progress.	
3	The officers were advised that a female resident was locked inside the upstairs bathroom. The	
4	officers arrived at the residence and heard loud crashing coming from the apartment. The officer	
5	noticed a decorative window had been shattered, the metal security door was shut and the front	
6	door was wide open. The officers observed Respondent in the window. The officers announced	
7	themselves and instructed Respondent to exit the residence. Respondent began kicking at the	
8	window with his left foot and then started banging on the upstairs bathroom door. Respondent	
9	began to yell, "Come out of there, and open the door I know you are in there!" The officers were	
10	in fear Respondent was going to force open the upstairs bathroom door and possibly assault the	
11	female resident. The officers entered the apartment and attempted to arrest Respondent, however,	
12	Respondent began fighting with the officers and resisted arrest.	
13	FIFTH CAUSE FOR DISCIPLINE	
14	(Dangerous Use of Alcohol)	
15	25. Respondent is subject to disciplinary action under section 4301, subdivision (h) of the	
16	Code in that he used dangerous drugs or alcoholic beverages to the extent or in a manner as to be	
17	dangerous or injurious to himself or to the public. Complainant refers to, and by this reference	
18	incorporates, the allegations set forth in paragraph 13, 16, 19, 22, 23 and 24, as though set forth	
19	fully.	
20	SIXTH CAUSE FOR DISCIPLINE	
21	(Multiple DUI Convictions)	
22	26. Respondent is subject to disciplinary action under section 4301, subdivision (k) of the	
23	Code in that Respondent was convicted of four (4) misdemeanor counts of violating Vehicle Code	
24	section 23152, subdivision (a) [driving under the influence of alcohol] and four (4) misdemeanor	
25	counts of violating Vehicle Code section 23152, subdivision (b) [driving with a blood-alcohol	
26	content level greater than or equal to .08%]. Complainant refers to, and by this reference	
27	incorporates, the allegations set forth in paragraphs 12, 15, 18 and 21, as though set forth fully.	
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1	SEVENTH CAUSE FOR DISCIPLINE	
2	(Unprofessional Conduct-Violation of Licensing Chapter)	
3	27. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the	
4	Code, in that Respondent committed acts of unprofessional conduct and / or violated provisions	
5	of the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations	
6	set forth in paragraphs 11 through 26, as though set forth fully.	
7	EIGHTH CAUSE FOR DISCIPLINE	
8	(Unprofessional Conduct-Committed Acts that would Warrant Denial of License)	
9	27. Respondent is subject to disciplinary action under section 4301, subdivision (p) of the	
10	Code, in that Respondent's actions or conduct would have warranted denial of a license.	
11	Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs	
12	11 through 26, as though set forth fully.	
13	PRAYER	
14	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
15	and that following the hearing, the Board of Pharmacy issue a decision:	
16	1. Revoking or suspending Intern Pharmacist License Number 21434, issued to Matthew	
17	James Veintimilla;	
18	2. Ordering Matthew James Veintimilla to pay the Board of Pharmacy the reasonable	
19	costs of the investigation and enforcement of this case, pursuant to Business and Professions Code	
20	section 125.3; and	
21	3. Taking such other and further action as deemed necessary and proper.	
22		
23	DATED:	
24	Executive Officer Board of Pharmacy	
25	Department of Consumer Affairs State of California	
26	Complainant	
27	LA2013510477	
28	LA2013510477 51425224_6.doc	
	10 Accusation	