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

12 In the Matter of the Accusation Against:  
13 **VINCENT VAILANKANNI COUTINHO**  
10129 Country Way  
14 Sacramento, CA 95827  
15 **Pharmacy Technician Registration Number**  
**TCH 106592**  
16 Respondent.

Case No. 4883

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

18 Virginia Herold ("Complainant") alleges:

20 **PARTIES**

- 21 1. Complainant brings this Accusation solely in her official capacity as the Executive  
22 Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about February 1, 2011, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 106592 to Vincent Vailankanni Coutinho ("Respondent"). The  
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
26 brought herein and will expire on September 30, 2014, unless renewed.

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1 **JURISDICTION**

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

5 4. Code section 4300 states, in pertinent part, that every license issued may be suspended  
6 or revoked.

7 5. Code section 4300.1 states:

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

13 **STATUTORY PROVISIONS**

14 6. Code section 4301 states, in pertinent part:

15 The board shall take action against any holder of a license who is guilty of unprofessional  
16 conduct. Unprofessional conduct shall include, but is not limited to, any of the following:

17 ...

18 (h) The use alcoholic beverages to the extent or in a manner as to be dangerous or injurious  
19 to oneself, or to any other person or to the public, or to the extent that the use impairs the ability  
20 of the person to conduct with safety to the public the practice authorized by the license.

21 ...

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

25 (l) The conviction of a crime substantially related to the qualifications, functions, and duties  
26 of a licensee under this chapter.

27 ...

1 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
3 federal and state laws and regulations governing pharmacy, including regulations established by the  
4 board or by any other state or federal regulatory agency."

5 **COST RECOVERY**

6 7. Code section 125.3 provides, in pertinent part, that the Board may request the  
7 administrative law judge to direct a licentiate found to have committed a violation or violations of  
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
9 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
10 renewed or reinstated.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Conviction of Crimes)**

13 8. Respondent is subject to discipline under Code section 4301, subdivision (I), in that on  
14 our about January 12, 2012, in the case of *People v. Vincent Vailankani Coutinho* (Superior  
15 Court, Sacramento County Case No. 11F05682<sup>1</sup>), Respondent was convicted on his plea of nolo  
16 contendere of two felony violations of Vehicle Code section 23152, subdivision (b) (DUI with  
17 higher than .08 BAC), with three separate and earlier violations of Vehicle Code section 23152  
18 and/or 23103/23103.5 within the proceeding ten years, and having thereafter been convicted of  
19 each offense. Respondent was granted 20 months of conditional probation (16 months of that to  
20 be served in jail), with terms and conditions, including installation of an ignition interlock device  
21 for three years and fines and fees. The facts and circumstances are as follows:

22 (a) On or about July 23, 2011, a California Highway Patrol observed Respondent's  
23 vehicle fail to stop behind the white line at a posted stop sign. The officer performed an  
24 enforcement stop and while speaking to Respondent, observed signs and symptoms of alcohol  
25 intoxication. The Officer conducted a series of field sobriety tests, which Respondent was unable

26 <sup>1</sup> Criminal complaints were filed for the arrest on July 23, 2011 (Superior Court,  
27 Sacramento County Case Number 11F05682), and the arrest on October 2, 2011 (Superior Court,  
28 Sacramento County Case Number 11F06852). These cases were consolidated under case number  
11F05682.

1 to perform as instructed. Respondent was arrested for driving under the influence violation of  
2 Vehicle Code section 23152, subdivision (a) (DUI of Alcohol or Drugs) and Vehicle Code section  
3 23152, subdivision (b) (DUI with .08% or higher BAC). Respondent's BAC was .18% at the time  
4 of his arrest on July 23, 2011.

5 (b) On or about October 2, 2011, an Elk Grove Police Officer observed Respondent  
6 driving a motor vehicle in a public roadway and crash into a parked vehicle. Upon contact, the  
7 officer observed that Respondent had a strong odor of alcoholic beverage emitting from his  
8 person. Respondent refused standard field sobriety tests. A records check revealed that  
9 Respondent was on DUI probation, and had a suspended driver's license and an outstanding  
10 warrant. Respondent was arrested for violation of Vehicle Code section 23152, subdivision (a)  
11 (DUI of Alcohol or Drugs), Vehicle Code section 23152, subdivision (b) (DUI with .08% BAC or  
12 higher), and Vehicle Code section 23154, subdivision (a) (DUI while on probation). Respondent's  
13 BAC was .19% at the time of his arrest on October 2, 2011.

14 **2002 Prior Conviction**

15 9. On or about August 19, 2002, in Sacramento County Superior Court Case Number  
16 02T02353, Respondent was convicted of violation of Vehicle Code section 23103.5 (Reckless  
17 Driving with Alcohol). Respondent's Blood Alcohol Content (BAC) was .15% at the time of his  
18 arrest on May 8, 2002. He was sentenced to three years probation, 7 days in jail, and ordered to  
19 pay fines and fees.

20 **2003 Prior Conviction**

21 10. On or about June 10, 2003, in Sacramento County Superior Court Case Number  
22 03M02985, Respondent was convicted of violation of Vehicle Code section 23152, subdivision (a)  
23 (Driving Under the Influence (DUI) of Alcohol or Drugs). Respondent's BAC was .21% at the  
24 time of his arrest on February 13, 2003. He was sentenced to four years probation, 20 days in jail,  
25 and ordered to pay fines and fees.

26 **2004 Prior Conviction**

27 11. On or about August 12, 2004, in Sacramento County Superior Court Case Number  
28 03T04212, Respondent was convicted of violation of Vehicle Code section 23152, subdivision (b)

1 (DUI with .08% BAC or higher). Respondent's Blood Alcohol Content (BAC) was .11% at the  
2 time of his arrest on July 4, 2003. He was sentenced to five years probation, 210 days in jail, and  
3 ordered to pay fines and fees.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Dangerous Use of Alcohol)**

6 12. Respondent is subject to discipline under Code section 4301, subdivision (h), on the  
7 grounds of unprofessional conduct, in that on or about May 8, 2002, February 13, 2003, July 4,  
8 2003, July 23, 2011, and October 2, 2011, Respondent used alcoholic beverages to an extent or in  
9 a manner dangerous or injurious to himself and the public when he drove a vehicle with a BAC of  
10 .08% or higher, as more particularly set forth above in paragraphs 8 through 11, and their  
11 subparts.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Conviction of More than one Misdemeanor or any Felony Involving the Use or**  
14 **Consumption of Alcoholic Beverage)**

15 13. Respondent is subject to discipline under Code section 4301, subdivision (k), for  
16 unprofessional conduct, in that on or about August 19, 2002, June 10, 2003, August 12, 2004, and  
17 January 12, 2012, Respondent was convicted of misdemeanors and felonies involving the use and  
18 consumption of alcoholic beverages, as more particularly set forth above in paragraphs 8 through  
19 11.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Violation of the Laws of Pharmacy)**

22 14. Respondent is subject to discipline under Code section 4301, subdivision (o), in that  
23 Respondent violated the laws and regulations governing pharmacy, as set forth above in  
24 paragraphs 8 through 13.

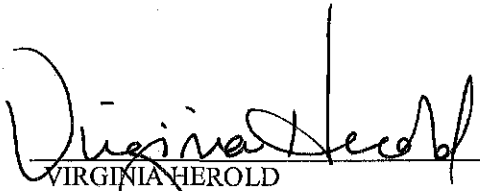
25 **PRAYER**

26 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Board of Pharmacy issue a decision:  
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1. Revoking or suspending Pharmacy Technician Registration Number TCH 106592, issued to Vincent Vailankanni Coutinho
2. Ordering Vincent Vailankanni Coutinho to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/19/13



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

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