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

11 In the Matter of the Accusation Against:  
12 **CLAUDIA ALDANA**  
1157 Newton Street  
13 San Fernando, CA 91340  
14  
15 Pharmacy Technician License No. TC75109  
16 Respondent.

Case No. 3354

**ACCUSATION**

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18 Complainant alleges:

19 **PARTIES**

- 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 April 2, 2007, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician License No. TCH 75109 to Claudia Aldana (Respondent). The Pharmacy Technician  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on March 31, 2011, unless renewed.

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**JURISDICTION**

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

**STATUTORY PROVISION**

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5       4.    Section 4300 permits the Board to take disciplinary action to suspend or revoke a  
6 license issued by the Board.

7       5.    Section 4301 states, in pertinent part:

8           "The board shall take action against any holder of a license who is guilty of unprofessional  
9 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.  
10 Unprofessional conduct shall include, but is not limited to, any of the following:

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

16           ....

17           “(j) The violation of any of the statutes of this state, or any other state, or of the United  
18 States regulating controlled substances and dangerous drugs.

19           ....

20           “(l) The conviction of a crime substantially related to the qualifications, functions, and  
21 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
22 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
23 substances or of a violation of the statutes of this state regulating controlled substances or  
24 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
25 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
26 The board may inquire into the circumstances surrounding the commission of the crime, in order  
27 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
28 or dangerous drugs, to determine if the conviction is of an offense substantially related to the

1 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
2 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
3 of this provision. The board may take action when the time for appeal has elapsed, or the  
4 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
5 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
6 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
7 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
8 indictment.”

9 **REGULATORY PROVISIONS**

10 6. California Code of Regulations, title 16, section 1770, states:

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

17 **COST RECOVERY**

18 7. Section 125.3 states, in pertinent part, that the Board may request the administrative  
19 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
20 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
21 case.

22 **CONTROLLED SUBSTANCE – DANGEROUS DRUG**

23 8. Methamphetamine is a Schedule II controlled substance as designated by Health and  
24 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to  
25 Business and Professions Code section 4022.

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**FIRST CAUSE FOR DISCIPLINE**

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**(Conviction of Substantially-Related Crimes)**

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9. Respondent is subject to disciplinary action under section 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, as a result of her conviction of a crime that is substantially related to the qualifications, functions, and duties of licensed pharmacy technician, as follows:

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a. On or about May 26, 2008, after displaying objective signs of being under the influence of methamphetamine, Respondent was arrested and charged with violating Health and Safety Code section 11550, subdivision (a) [being under the influence of a controlled substance]. In speaking with officers of the Los Angeles Police Department, Respondent admitted smoking methamphetamine earlier that day and "using off and on since I was sixteen." Respondent was twenty years old at the time of her arrest.

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b. On or about June 4, 2008, a complaint was filed in the Superior Court of California, County of Los Angeles, officially charging Respondent with one misdemeanor count of violating Health and Safety Code section 11550, subdivision (a) [being under the influence of a controlled substance] in the criminal proceeding entitled *The People of the State of California v. Claudia Aldana* (Super. Ct. Los Angeles County, 2008, No. 8SR02791).

On or about June 16, 2008, the Court granted Respondent Deferred Entry of Judgment for a period of three years, with certain terms and conditions, including abstinence from illegal drug use and participation in a court-approved drug education program.

d. On or about October 13, 2009, after failing to appear in court without sufficient excuse, Respondent was terminated from the Deferred Entry of Judgment and convicted of one misdemeanor count of violating Health and Safety Code section 11550, subdivision (a) [being under the influence of a controlled substance].

**SECOND CAUSE FOR DISCIPLINE**

**(Violating State Laws Regulating Controlled Substances)**

10. Respondent is subject to disciplinary action under section 4301, subdivision (j), for violating Health and Safety Code section 11550, subdivision (a) [being under the influence of a

1 controlled substance]. Complainant refers to and incorporates all the allegations contained in  
2 paragraph 9, including its subparagraphs, as though set forth fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Dangerous Use of a Controlled Substance)**

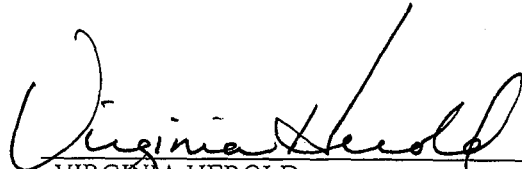
5 11. Respondent is subject to disciplinary action under section 4301, subdivision (h),  
6 for using the controlled substance methamphetamine in a manner that was dangerous to herself  
7 and others. Complainant refers to and incorporates all the allegations contained in paragraph 9,  
8 including its subparagraphs, as though set forth fully.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11 and that following the hearing, the Board issue a decision:

- 12 1. Revoking or suspending Pharmacy Technician License No. TCH 75109, issued to  
13 Respondent;
- 14 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
15 enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

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19 DATED: 2/22/10

  
20 VIRGINIA HEROLD  
21 Executive Officer  
22 Board of Pharmacy  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant

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