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7.	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	STATE OF CALIFORNIA		
	In the Matter of the Accusation Against: Case No. 3401		
11	LOURDES MORRISSEY		
12	14721 Labrador St. North Hills, CA 91343 A C C U S A T I O N		
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14	Pharmacy Technician Registration No. TCH 32807		
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- 1	Pecnandent		
16	Respondent.		
16 17	Respondent.		
	Respondent. Complainant alleges:		
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17	Complainant alleges:		
17 18 19	Complainant alleges: PARTIES		
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17 18 19 20 21	Complainant alleges: PARTIES 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
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JURISDICTION

- 3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
 - 4. Section 4301 of the Code states, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or 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.

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

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

- "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.
 - "(p) Actions or conduct that would have warranted denial of a license."

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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

CONTROLLED SUBSTANCES/DANGEROUS DRUGS.

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

FIRST CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substance or Use of Dangerous Drug)

- 8. Respondent is subject to disciplinary action under section 4301, subdivision (h) in that she administered to herself a controlled substance, methamphetamine, and/or used a dangerous drug, methamphetamine, to the extent or in a manner as to be dangerous or injurious to herself and to other members of the public as follows:
- a. On or about June 15, 2006, in the Superior Court of California, County of Los Angeles, in the case entitled, *People of the State of California v. Lourdes Morrissey* (Super. Ct. Los Angeles County, 2006, No. 6CP01146), Respondent was convicted on her plea of guilty of violating Health & Safety Code section 11550, subdivision (a) (using or being under the influence of a controlled substance), a misdemeanor. Respondent was granted "deferred entry of judgment" for 18 months and ordered to cooperate with a probation officer in a plan for drug education treatment. After failing to appear at subsequent court dates, Respondent's deferred entry of judgment was terminated for the final time on October 2, 2007. The criminal proceedings were reinstated and Respondent was convicted of violating Health & Safety Code section 11550, subdivision (a). Respondent was also convicted on her plea of nolo contendere of

violating Vehicle Code section 12500, subdivision (a), (unlicensed driver), a misdemeanor. As to this count, Respondent was sentenced to 24 months summary probation and ordered to pay restitution and court fees.

- b. The circumstances are that on or about January 12, 2006, a Los Angeles County Sheriff's Department Deputy observed Respondent make an unsafe lane change in her vehicle in violation of Vehicle Code section 21658. The deputy conducted a traffic stop to warn Respondent regarding the violation. Upon making contact with Respondent, the deputy observed that she was displaying symptoms of being under the influence of a stimulant. The deputy also observed a glass pipe sticking out of Respondent's right jacket pocket as she stepped out of the vehicle. When the deputy recovered the glass pipe, he saw that it had a bulbous end.
- c. The deputy detained Respondent. When other deputies arrived they recognized the glass pipe to be commonly used to ingest narcotics. The deputies observed that Respondent was displaying the following symptoms: bruxism (grinding of teeth), profuse sweating despite cool weather, rapid speech and an inability to be still.
- d. Respondent spontaneously stated to the deputies, "I smoked meth on Tuesday[] I'm fine now." Based on the deputies' training and experience, they determined that Respondent was under the influence of a stimulant. When the deputies checked Respondent's driver's license status, records reflected that her license was suspended. The deputies placed Respondent under arrest for being under the influence of a stimulant, possession of drug paraphernalia and for driving with a suspended license. Once at the station, Respondent refused to take a urine test.

SECOND CAUSE FOR DISCIPLINE

(Violation of Law Regulating Controlled Substances and Dangerous Drugs)

9. Respondent is subject to disciplinary action under section 4301, subdivision (j) in that she violated the law regulating controlled substances and dangerous drugs, as set forth in paragraph 8, subparagraphs (a) through (d) above. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 8, subparagraphs (a) through (d), as though set forth fully.

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THIRD CAUSE FOR DISCIPLINE

(Substantially Related Conviction)

10. Respondent is subject to disciplinary action under section 4301, subdivision (j) in that she was convicted of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter, as set forth in paragraph 8, subparagraphs (a) through (d) above. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 8, subparagraphs (a) through (d), as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Violating Laws and Regulations Governing Pharmacy)

11. Respondent is subject to disciplinary action under section 4301, subdivision (o) in that she violated laws and regulations governing pharmacy, as set forth in paragraph 8, subparagraphs (a) through (d) above. Specifically, she violated Code section 4301, subdivisions (h), (j), (l) and (p). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 8, subparagraphs (a) through (d), as though set forth fully.

FIFTH CAUSE FOR DISCIPLINE

(Engaging in Conduct Warranting License Denial)

. 12	. Respondent is subject to disciplinary acti	on under section 4301, subdivision (p) in		
that she	engaged in conduct that warrants denial of he	er license, as set forth in paragraph 8,		
subparagraphs (a) through (d) above. Complainant refers to, and by this reference incorporates.				
the allegations set forth above in paragraph 8, subparagraphs (a) through (d), as though set forth				
fully.	•			

PRAYER

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

- 1. Revoking or suspending Pharmacy Technician Registration Number TCH 32807, issued to Lourdes Morrissey.
- 2. Ordering Lourdes Morrissey 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: /2/30/09

VIRGINIA HEROLD Executive Officer

Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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