·		
1	EDMUND G. BROWN JR.	
2	Attorney General of California ARTHUR D. TAGGART	
. 3	Supervising Deputy Attorney General STERLING A. SMITH	
4	Deputy Attorney General State Bar No. 84287	
5	1300 I Street, Suite 125 P.O. Box 944255	
. 6	Sacramento, CA 94244-2550 Telephone: (916) 445-0378	
7	Facsimile: (916) 327-8643 Attorneys for Complainant	
8		a destro
	BEFORE THE DENTAL BOARD OF CALIFORNIA DEDARTMENT OF CONSUMER A FIRST AND CONSUMER AND CO	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10		
11	In the Matter of the Accusation Against:	Case No. 3691
12	DENISE RENE SANDOVAL 301 Standiford, #209	
13	Modesto, California 95350	ACCUSATION
14	Pharmacy Technician License No. 91445	
15	Respondent.	
16		
17	Complainant alleges:	
18	<u>PARTIES</u>	
19	1. Virginia K. Herold (Complainant) brings this Accusation solely in her official	
20	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.	
21	2. On or about June 30, 2009, the Board of Pharmacy issued Pharmacy Technician	
22	License No. TCH 91445 to Denise Rene Sandoval (Respondent). The Pharmacy Technician	
23	License was in full force and effect at all times relevant to the charges brought herein and will	
24	expire on December 31, 2010, unless renewed.	
25		
26		
27	///	
28	///	
	1	
	II————————————————————————————————————	•

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 4300 of the Code 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. 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:

. . .

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

2.7

(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

3

1

6

7

1112

10

14

15

13

16 17

18 19

2021

2223

24

2526

27

28

111

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.

- 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 evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is an offense substantially related to qualifications, functions, and duties of a licensee under this chapter. A plea of guilty or a conviction following a plea of nolo contendre is deemed to be a conviction within the meaning of this provision. The Board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.
- 6. Section 111, subdivision (b) of the Code provides, in pertinent part, that "the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the Board or by order of a court of law, or its surrender without the written consent of the Board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the Board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground".

///

- 7. Health and Safety Code section 11055(d)(2) lists methamphetamine as a Schedule II controlled substance.
- 8. 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.

FIRST CAUSE FOR DISCIPLINE

(Criminal Convictions)

- 9. Respondent is subject to disciplinary action for unprofessional conduct under section 4301(l) of the Code in that she is convicted of the following crimes, each of which is substantially related to the qualifications, functions or duties for which Respondent is licensed:
- a. On or about March 22, 2007, conviction by her plea of no contest to violation of Welfare and Institutions Code sections 10980(c) and 11483 (fraudulent obtaining of aid, cash and food stamps, when not eligible for such aid), a misdemeanor, in *People v. Denise Sandoval a.k.a. Denise Whatley*, Stanislaus County Superior Court Case No. 1213437.
- b. On or about January 29, 2010, conviction by plea of no contest to violation of Business & Professions Code section 4140 (possession of needle/hypodermic syringe), a misdemeanor, in *People v. Denise Sandoval, et al,* Stanislaus County Superior Court Case No. 1409069. The circumstances were that on or about October 12, 2009, Respondent and passenger A.G. were stopped by police for a traffic violation. A.G. was found to be in possession of methamphetamine and Respondent to be in possession of several hypodermic syringes located in her purse. A glass pipe for smoking methamphetamine was found in center consol area of the vehicle driven by Respondent. Respondent admitted to police that the hypodermic syringes were hers, and that she uses them to inject methamphetamine into her body.

SECOND CAUSE FOR DISCIPLINE 1 (Acts of Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption) 2 10. Respondent is subject to disciplinary action for unprofessional conduct under section 3 4301(f) of the Code by committing acts involving moral turpitude, fraud, deceit or corruption by 4 virtue of her conviction as described in Paragraph 9(a) above. 5 6 THIRD CAUSE FOR DISCIPLINE (Self-Administration of Controlled Substances in Manner 7 Dangerous to Respondent and Others) 8 Based upon the allegations of Paragraph 9(b), Respondent is subject to disciplinary 9 action for unprofessional conduct under section 4301(h) of the Code in that Respondent injected 10 herself with methamphetamine, a Schedule II controlled substance, with hypodermic syringes 11 found in her possession. Respondent's use of methamphetamine was and is use of controlled 12 substances to the extent or in a manner dangerous or injurious to Respondent, to others, to the 13 public generally and to the extent that it impairs her ability to conduct with safety to the public 14 the practice authorized by her pharmacy technician license. 15 **PRAYER** 16 17 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: 18 A. Revoking or suspending Pharmacy Technician License No. TCH 91445 issued to 19 Respondent Denise Sandoval; 20 111 21 22 /// 111 23 111 24 2.5 111 111 26 2.7 111 28

1	B. Ordering Respondent Denise Sandoval to pay the Board of Pharmacy the	
2	reasonable costs of the investigation and enforcement of this case, pursuant to Business and	
3	Professions Code section 125.3;	
4	C. Taking such other and further action as deemed necessary and proper.	
5		
6	(a/a/a)	
7	DATED: 69/10 VIRGINIA K. HEROLD	
8	Executive Officer Board of Pharmacy	
9	Department of Consumer Affairs State of California	
10	Complainant .	
11	SA2010101199 10567976.doc	
12	10567976.doc	
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
.24		
25 26		
27		
28		
20	6	
1		