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

12 In the Matter of the Accusation Against:

Case No. 3249

13 ROCHELLE DOLAN
aka ROCHELLE CHAMBERLAIN
14 16701 Blanton Street
Huntington Beach, CA 92649

A C C U S A T I O N

15 Pharmacy Technician Reg. No. TCH 45962

16 Respondent.
17

18 Complainant alleges:

19 PARTIES

20 1. Virginia Herold (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
22 Affairs.

23 2. On or about July 29, 2003, the Board of Pharmacy issued Pharmacy
24 Technician Registration Number TCH 45962 to Rochelle Dolan, also known as Rochelle
25 Chamberlain (Respondent). The Pharmacy Technician Registration was in full force and effect
26 at all times relevant to the charges brought herein and will expire on November 30, 2010, unless
27 renewed.

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7. Section 4301 of the Code states:

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.

....

(p) Actions or conduct that would have warranted denial of a license.

....

8. Section 4313 of the Code states:

In determining whether to grant an application for licensure or whether to discipline or reinstate a license, the board shall give consideration to evidence of rehabilitation. However, public protection shall take priority over rehabilitation and, where evidence of rehabilitation and public protection are in conflict, public protection shall take precedence.

9. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

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1 appeared chapped and burned. One of the passengers stated he was on probation for drug sales.
2 All persons were removed from the vehicle. Respondent stated she had nothing illegal in her
3 vehicle and did not object to a search. Underneath the driver's seat floor mat, a second officer
4 located a white sock containing a glass pipe commonly used to smoke methamphetamine.
5 Respondent told the officer she had never smoked methamphetamine before. When the officer
6 told Respondent about his observations regarding her dilated pupils and burnt lips, she stated she
7 smoked "meth" once or twice in the past. Respondent finally admitted that she had smoked
8 methamphetamine earlier in the evening. Respondent produced a small Ziploc baggie containing
9 2.1 grams of methamphetamine that she had concealed in her bra. Respondent was arrested and
10 transported to the Huntington Beach Police Department for booking. After reading Respondent
11 her *Miranda* rights, Respondent told the officer that she had been smoking methamphetamine for
12 a few months and had smoked it earlier in the evening at a friend's house.

13 15. In a court proceeding on or about May 9, 2007, entitled *People of the State*
14 *of California v. Rochelle Jo Chamberlain*, in Orange County Superior Court, case number
15 07WF0861, the court accepted Respondent's plea of guilty of violating Health and Safety Code
16 section 11377, subdivision (a), possession of a controlled substance, a felony. Entry of judgment
17 was deferred and Respondent was ordered to enroll in a drug program pursuant to Penal Code
18 section 1000 which required she not use illegal drugs, narcotics or controlled substances, submit
19 to biological testing, and pay court-ordered fees and fines. At a hearing on or about July 13,
20 2007, the court terminated the Penal Code section 1000 diversion and ordered Respondent to
21 complete a Penal Code section 1210 drug program. At a hearing on or about October 30, 2007,
22 Respondent was arraigned on probation violations. Respondent was terminated from the drug
23 treatment program for failing to attend counseling sessions and report to probation as scheduled.
24 The Penal Code section 1210 program was reinstated and Respondent was placed on three years
25 probation. At a hearing on or about January 2, 2008, Respondent was arraigned for violating
26 probation as follows: (1) on November 20, 2007, Respondent tested positive for
27 methamphetamine; (2) on December 26, 2007, Respondent failed to submit to drug testing; and
28 (3) Respondent failed to pay her court-ordered fees and fines. Respondent's probation was

1 reinstated. Following completion of the Penal Code section 1210 drug program, Respondent's
2 conviction was dismissed by the court on November 10, 2008.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Violation of California Statutes Regulating**
5 **Controlled Substances & Dangerous Drugs)**

6 16. Respondent is subject to disciplinary action under sections 4301,
7 subdivision (j) and 4060 of the Code in that on or about February 2, 2007, Respondent
8 knowingly violated California statutes regulating controlled substances and dangerous drugs
9 when she was found in possession and under the influence of methamphetamine, as detailed in
10 paragraph 14, above. In Respondent's plea agreement dated May 9, 2007, Respondent stated "In
11 Orange County, California, on 2/2/07 I knowingly possessed a usable quantity of
12 methamphetamine." Such acts constitute unprofessional conduct.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct – Self-Administration of a Controlled Substance)**

15 17. Respondent is subject to disciplinary action under sections 4301,
16 subdivision (h) of the Code in that on or about February 2, 2007, Respondent admitted to
17 smoking methamphetamine, as detailed in paragraph 14, above. The self-administration of an
18 illegal controlled substance constitutes unprofessional conduct.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Commission of Acts That Would Have Warranted Denial of a License)**

21 18. Respondent is subject to disciplinary action under section 4301,
22 subdivision (p) of the Code in that Respondent's possession and being under the influence of
23 methamphetamine on February 2, 2007, as detailed in paragraph 14, above, is unprofessional
24 conduct that would warrant the denial of a pharmacy technician registration.

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PRAYER

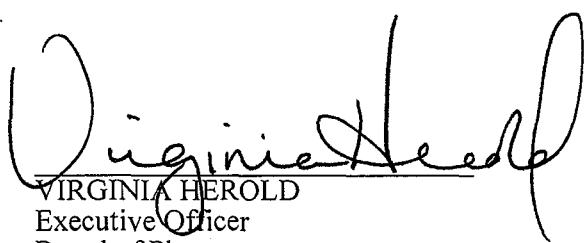
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 45962, issued to Rochelle Dolan, also known as Rochelle Chamberlain;

2. Ordering Rochelle Dolan 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: 2/2/09



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

SD2008803078