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9	BEFORE THE BOARD OF PHARMACY	
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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12	In the Matter of the Accusation Against:	Case No. 3249
13	ROCHELLE DOLAN aka ROCHELLE CHAMBERLAIN	ACCUSATION
14	16701 Blanton Street Huntington Beach, CA 92649	
15	Pharmacy Technician Reg. No. TCH 45962	
16	Respondent.	
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18 19	Complainant alleges: PARTIE	°C
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20	1. Virginia Herold (Complainant) brings this Accusation solely in her	
22	official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.	
23		e 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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1	JURISDICTION	
2	3. This Accusation is brought before the Board of Pharmacy (Board),	
3	Department of Consumer Affairs, under the authority of the following laws. All section	
4	references are to the Business and Professions Code (Code) unless otherwise indicated.	
5	4. Section 118, subdivision (b), of the Code provides that the suspension,	
6	expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to	
7	proceed with a disciplinary action during the period within which the license may be renewed,	
8	restored, reissued or reinstated.	
9	5. Section 492 of the Code states:	
10	Notwithstanding any other provision of law, successful completion of any diversion program under the Denel Code, or successful completion of an also half	
11	diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may	
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14	be recorded in a record pertaining to an arrest.	
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16	6. Section 4300 of the Code states:	
17	(a) Every license issued may be suspended or revoked.	
18 19	(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:	
20	(1) Suspending judgment.	
21	(2) Placing him or her upon probation.	
22	(3) Suspending his or her right to practice for a period not	
23	exceeding one year.	
24	(4) Revoking his or her license.	
25	(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.	
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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	10. California Code of Regulations, title 16, section 1770, states:		
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	For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the		
3	Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a		
4 5	substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.		
6	11. Section 125.3 of the Code states, in pertinent part, that the Board may		
7	request the administrative law judge to direct a licentiate found to have committed a violation or		
8	violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation		
9	and enforcement of the case.		
10	DRUG		
11	12. <u>Methamphetamine</u> is a Schedule II controlled substance as designated by		
12	Health and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to		
13	Business and Professions Code section 4022.		
14	13. Section 4022 of the Code states		
15 16	for self-use in humans or animals, and includes the following:		
10	(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.		
18	(b) Any device that bears the statement: "Caution: federal law restricts this		
19	device to sale by or on the order of a," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.		
20	(c) Any other drug or device that by federal or state law can be lawfully		
21	dispensed only on prescription or furnished pursuant to Section 4006.		
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23	<u>FACTS</u>		
24	14. On or about the early morning hours of February 2, 2007, a patrol officer		
25	from the Huntington Beach Police Department observed Respondent, who was driving a Ford		
26	Explorer, make a right turn without utilizing her turn signal. The officer conducted a traffic stop.		
27	There were two people sitting in the passenger seat without seatbelts. Upon contacting		
28	Respondent, the officer immediately noticed that Respondent's pupils were dilated and her lips		
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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. Respondent told the officer she had never smoked methamphetamine before. When the officer 5 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 to biological testing, and pay court-ordered fees and fines. At a hearing on or about July 13, 19 20 2007, the court terminated the Penal Code section 1000 diversion and ordered Respondent to complete a Penal Code section 1210 drug program. At a hearing on or about October 30, 2007, 21 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. The Penal Code section 1210 program was reinstated and Respondent was placed on three years 24 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

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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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1 **PRAYER** 2 WHEREFORE, Complainant requests that a hearing be held on the matters herein 3 alleged, and that following the hearing, the Board of Pharmacy issue a decision: 4 1. Revoking or suspending Pharmacy Technician Registration Number 5 TCH 45962, issued to Rochelle Dolan, also known as Rochelle Chamberlain; 6 2. Ordering Rochelle Dolan to pay the Board of Pharmacy the reasonable 7 costs of the investigation and enforcement of this case, pursuant to Business and Professions 8 Code section 125.3; 9 3. Taking such other and further action as deemed necessary and proper. 10 DATED: 11 12 13 14 VIRGINI Executive Officer 15 Board of Pharmacy Department of Consumer Affairs 16 State of California Complainant 17 18 SD2008803078 19 20 21 22 23 24 25 26 27 28 7