

1 BILL LOCKYER, Attorney General
of the State of California
2 KIM M. SETTLES, State Bar No. 116945
Deputy Attorney General
3 California Department of Justice
1515 Clay Street, 20th Floor
4 P.O. Box 70550
Oakland, CA 94612-0550
5 Telephone: (510) 622-2138
Facsimile: (510) 622-2270
6 Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

12 RANDALYN GASSMAN ROGEN
1644 Stardust Court
13 Santa Clara, CA 95050

14 Marriage and Family Therapist Intern
Registration No. IMF 32942

15 Respondent.
16

Case No. IM-2003-34

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

17 Service having been attempted by both regular and registered mail on respondent
18 at the latest address filed by respondent with the Board of Behavioral Sciences, Department of
19 Consumer Affairs, in compliance with sections 11505(a) and 11505(c) of the Government Code,
20 and respondent having failed to file a Notice of Defense within the time allowed by section
21 11506(b) and 11520 of the Government Code.

22 Accordingly, based on the evidence on file, the aforementioned agency makes the
23 following findings of fact:

24 FINDINGS OF FACT

25 1. Sherry Mehl, (Complainant) brought this Accusation solely in her official
26 capacity as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer
27 Affairs. (A copy of the Accusation is attached hereto as Exhibit A.)

28 2. On or about March 18, 1998, the Board of Behavioral Sciences (Board)

1 issued Marriage and Family Therapist Intern Registration No. IMF 32942 to Respondent. The
2 Marriage and Family Therapist Intern Registration expired on April 1, 1999, and has not been
3 renewed.

4 STATUTORY PROVISIONS

5 3. Section 4982 of the Business and Professions Code (Code) states:

6 "The board may refuse to issue any registration or license, or may suspend
7 or revoke the license or registration of any registrant or licensee if the applicant,
8 licensee, or registrant has been guilty of unprofessional conduct. Unprofessional
9 conduct shall include, but not be limited to:

10 "(a) The conviction of a crime substantially related to the
11 qualifications, functions, or duties of a licensee or registrant under this chapter.
12 The record of conviction shall be conclusive evidence only of the fact that the
13 conviction occurred. The board may inquire into the circumstances surrounding
14 the commission of the crime in order to fix the degree of discipline or to
15 determine if the conviction is substantially related to the qualifications, functions,
16 or duties of a licensee or registrant under this chapter. A plea or verdict of guilty
17 or a conviction following a plea of nolo contendere made to a charge substantially
18 related to the qualifications, functions, or duties of a licensee or registrant under
19 this chapter shall be deemed to be a conviction within the meaning of this section.
20 The board may order any license or registration suspended or revoked, or may
21 decline to issue a license or registration when the time for appeal has elapsed, or
22 the judgment of conviction has been affirmed on appeal, or, when an order
23 granting probation is made suspending the imposition of sentence, irrespective of
24 a subsequent order under Section 1203.4 of the Penal Code allowing the person to
25 withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict
26 of guilty, or dismissing the accusation, information, or indictment.

27 ...

28 "(c) Administering to himself or herself any controlled substance

1 or using of any of the dangerous drugs specified in Section 4022, or of any
2 alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to
3 the person applying for a registration or license or holding a registration or license
4 under this chapter, or to any other person, or to the public, or, to the extent that the
5 use impairs the ability of the person applying for or holding a registration or
6 license to conduct with safety to the public the practice authorized by the
7 registration or license, or the conviction of more than one misdemeanor or any
8 felony involving the use, consumption, or self-administration of any of the
9 substances referred to in this subdivision, or any combination thereof. The board
10 shall deny an application for a registration or license or revoke the license or
11 registration of any person, other than one who is licensed as a physician and
12 surgeon, who uses or offers to use drugs in the course of performing marriage,
13 family, and child counseling services."

14 3. Section 118(b) of the Code provides, in pertinent part, that the expiration
15 of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action
16 during the period within which the license may be renewed, restored, reissued or reinstated.
17 Section 4980.44(3) of the Code provides, in pertinent part, that a license, issued by the Board,
18 that has expired may be renewed at any time within five years after its expiration.

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

23 5. Section 490 states:

24 "A board may suspend or revoke a license on the ground that the
25 licensee has been convicted of a crime, if the crime is substantially related to the
26 qualifications, functions, or duties of the business or profession for which the
27 license was issued. A conviction within the meaning of this section means a plea
28 or verdict of guilty or a conviction following a plea of nolo contendere. Any

1 action which a board is permitted to take following the establishment of a
2 conviction may be taken when the time for appeal has elapsed, or the judgment of
3 conviction has been affirmed on appeal, or when an order granting probation is
4 made suspending the imposition of sentence, irrespective of a subsequent order
5 under the provisions of Section 1203.4 of the Penal Code."

6 FIRST CAUSE FOR DISCIPLINE

7 (Conviction)

8 6. Respondent has subjected her license to discipline under sections 4982(a)
9 and 490 of the Business and Professions Code in that she has been convicted of crimes
10 substantially related to the qualifications, functions, and duties of a Marriage and Family Therapy
11 Intern, as follows:

12 a. On June 11, 2002, respondent, after a plea of guilty, was convicted in
13 the Superior Court of California, County of Santa Clara, case number CC12061,
14 of violation of Health and Safety Code sections 11377(a) (possession of
15 controlled substance), 11364 (possession of paraphernalia used for injecting or
16 smoking controlled substances), and 11550 (use of controlled substances). The
17 convictions were based on an arrest of August 26, 2001.

18 b. On July 23, 2002, pursuant to said convictions, respondent was
19 sentenced to six months in the county jail, with the imposition of the sentence
20 suspended for the probation period. Respondent was placed on three years
21 probation. The terms of probation included, but were not limited to, submission
22 to search and testing, no alcohol/drugs or where sold, participation in a parental
23 counseling program, and the payment of fines and fees.

24 7. The underlying circumstances of respondent's convictions are that on
25 August 26, 2001, respondent possessed methamphetamine, a felony; possessed controlled
26 substance paraphernalia (opium pipe), a misdemeanor; and, used and was under the influence of
27 a controlled substance, methamphetamine, a misdemeanor.

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This Decision shall become effective on July 30, 2003.

It is so ORDERED June 30, 2003



FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Accusation No. IM-2003-34

Exhibit A

Accusation No. IM-2003-34

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14 Marriage and Family Therapist Intern
Registration No. IMF 32942

ACCUSATION

15
16 Respondent.

17 Complainant alleges:

18 PARTIES

- 19 1. Sherry Mehl (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Behavioral Sciences.
21 2. On or about March 18, 1998, the Board of Behavioral Sciences ("Board")
22 issued Marriage and Family Therapist Intern Registration No. IMF 32942 to Randalyn Gassman
23 Rogen ("Respondent"). The registration expired on April 1, 1999, and has not been renewed.

24 JURISDICTION

- 25 3. This Accusation is brought before the Board of Behavioral Sciences,
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.

28 //

1 4. Section 4982 of the Code states:

2 "The board may refuse to issue any registration or license, or may
3 suspend or revoke the license or registration of any registrant or licensee if the
4 applicant, licensee, or registrant has been guilty of unprofessional conduct.

5 Unprofessional conduct shall include, but not be limited to:

6 "(a) The conviction of a crime substantially related to the
7 qualifications, functions, or duties of a licensee or registrant under this chapter.
8 The record of conviction shall be conclusive evidence only of the fact that the
9 conviction occurred. The board may inquire into the circumstances surrounding
10 the commission of the crime in order to fix the degree of discipline or to
11 determine if the conviction is substantially related to the qualifications, functions,
12 or duties of a licensee or registrant under this chapter. A plea or verdict of guilty
13 or a conviction following a plea of nolo contendere made to a charge substantially
14 related to the qualifications, functions, or duties of a licensee or registrant under
15 this chapter shall be deemed to be a conviction within the meaning of this section.
16 The board may order any license or registration suspended or revoked, or may
17 decline to issue a license or registration when the time for appeal has elapsed, or
18 the judgment of conviction has been affirmed on appeal, or, when an order
19 granting probation is made suspending the imposition of sentence, irrespective of
20 a subsequent order under Section 1203.4 of the Penal Code allowing the person to
21 withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict
22 of guilty, or dismissing the accusation, information, or indictment.

23 ...

24 "(c) Administering to himself or herself any controlled substance
25 or using of any of the dangerous drugs specified in Section 4022, or of any
26 alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to
27 the person applying for a registration or license or holding a registration or license
28 under this chapter, or to any other person, or to the public, or, to the extent that the

1 use impairs the ability of the person applying for or holding a registration or
2 license to conduct with safety to the public the practice authorized by the
3 registration or license, or the conviction of more than one misdemeanor or any
4 felony involving the use, consumption, or self-administration of any of the
5 substances referred to in this subdivision, or any combination thereof. The board
6 shall deny an application for a registration or license or revoke the license or
7 registration of any person, other than one who is licensed as a physician and
8 surgeon, who uses or offers to use drugs in the course of performing marriage,
9 family, and child counseling services."

10 5. Section 118(b) of the Code provides, in pertinent part, that the expiration
11 of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action
12 during the period within which the license may be renewed, restored, reissued or reinstated.
13 Section 4980.44(3) of the Code provides, in pertinent part, that a license, issued by the Board,
14 that has expired may be renewed at any time within five years after its expiration.

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

19 7. Section 490 states:

20 "A board may suspend or revoke a license on the ground that the
21 licensee has been convicted of a crime, if the crime is substantially related to the
22 qualifications, functions, or duties of the business or profession for which the
23 license was issued. A conviction within the meaning of this section means a plea
24 or verdict of guilty or a conviction following a plea of nolo contendere. Any
25 action which a board is permitted to take following the establishment of a
26 conviction may be taken when the time for appeal has elapsed, or the judgment of
27 conviction has been affirmed on appeal, or when an order granting probation is
28 made suspending the imposition of sentence, irrespective of a subsequent order

1 under the provisions of Section 1203.4 of the Penal Code."

2 8. Respondent has subjected her license to discipline under sections 4982(a)
3 and 490 of the Business and Professions Code in that she has been convicted of crimes
4 substantially related to the qualifications, functions, and duties of a Marriage and Family Therapy
5 Intern, as follows:

6 a. On June 11, 2002, respondent, after a plea of guilty, was
7 convicted in the Superior Court of California, County of Santa Clara, case number
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9 of controlled substance), 11364 (possession of paraphernalia used for injecting or
10 smoking controlled substances), and 11550 (use of controlled substances). The
11 convictions were based on an arrest of August 26, 2001.

12 b. On July 23, 2002, pursuant to said convictions, respondent was
13 sentenced to six months in the county jail, with the imposition of the sentence
14 suspended for the probation period. Respondent was placed on three years
15 probation. The terms of probation included, but were not limited to, submission
16 to search and testing, no alcohol/drugs or where sold, participation in a parental
17 counseling program, and the payment of fines and fees.

18 FIRST CAUSE FOR DISCIPLINE

19 (Conviction)

20 9. The underlying circumstances of respondent's convictions are that on
21 August 26, 2001, respondent possessed methamphetamine, a felony; possessed controlled
22 substance paraphernalia (opium pipe), a misdemeanor; and, used and was under the influence of
23 a controlled substance, methamphetamine, a misdemeanor.

24 SECOND CAUSE FOR DISCIPLINE

25 (Use of Controlled Substance)

26 10. Respondent has subjected her license to discipline pursuant to Business
27 and Professions Code section 4982(e) in that she used a controlled substance to an extent
28 dangerous to herself or others, as set forth in paragraph 9, above.

