

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MARK ANTHONY MARTINEZ, Respondent

Pharmacy Technician Registration No. TCH 150553

Agency Case No. 7161

DECISION AND ORDER

The attached Stipulated Surrender of License Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on January 19, 2022.

It is so ORDERED on December 20, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" clearly visible.

Seung W. Oh, Pharm.D.
Board President

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

13 In the Matter of the Accusation Against:

Case No. 7161

14 **MARK ANTHONY MARTINEZ**
22484 Sheffield Drive
15 Moreno Valley, CA 92557

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Pharmacy Technician Registration No. TCH
150553**

17 Respondent.
18

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
23 (Board). She brought this action solely in her official capacity and is represented in this matter by
24 Rob Bonta, Attorney General of the State of California, by Michael M. Karimi, Deputy Attorney
25 General.

26 2. Mark Anthony Martinez (Respondent) is representing himself in this proceeding and
27 has chosen not to exercise his right to be represented by counsel.

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3. On or about September 24, 2015, the Board issued Pharmacy Technician Registration No. TCH 150553 to Mark Anthony Martinez (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 7161 and will expire on October 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 7161 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 5, 2021. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 7161 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 7161. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 7161, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacy Technician Registration.

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9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacy Technician Registration without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 150553, issued to Respondent Mark Anthony Martinez, is surrendered and accepted by the Board.

1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 7161 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$4,701.25 prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 7161 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

7. Respondent may not apply for any license, permit, or registration from the Board for three years from the effective date of this decision.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

MARK ANTHONY MARTINEZ
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

MICHAEL M. KARIMI
Deputy Attorney General
Attorneys for Complainant

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1 ACCEPTANCE

2 I have carefully read the Stipulated Surrender of License and Order. I understand the
3 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
4 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
5 be bound by the Decision and Order of the Board of Pharmacy.

6
7 DATED: 10/26/21 Mark A. Martinez
8 MARK ANTHONY MARTINEZ
9 Respondent


10 ENDORSEMENT

11 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
12 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

13 DATED: 11/10/21

Respectfully submitted,

14 ROB BONTA
15 Attorney General of California
16 GREGORY J. SALUTE
17 Supervising Deputy Attorney General

18 
19 MICHAEL M. KARIMI
20 Deputy Attorney General
21 Attorneys for Complainant

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Exhibit A

Accusation No. 7161

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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 7161

14 **MARK ANTHONY MARTINEZ**
22484 Sheffield Drive
15 Moreno Valley, CA 92557

ACCUSATION

16 **Pharmacy Technician Registration No.**
17 **TCH 150553**

Respondent.

19
20 **PARTIES**

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

23 2. On or about September 24, 2015, the Board issued Pharmacy Technician Registration
24 Number TCH 150553 to Mark Anthony Martinez (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on October 31, 2022, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code section 4300, subdivision (a), states: "Every licensed issued may be suspended or revoked."

5. Code section 4300.1 states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

6. Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this 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.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

7. Code section 4059 states, in pertinent part, that a person may not furnish any dangerous drug or any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

8. Code section 4060 states:

A person shall not 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, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any

1 controlled substance by a manufacturer, wholesaler, third-party logistics provider,
2 pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
3 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant,
if in stock in containers correctly labeled with the name and address of the supplier or
producer.

4 This section does not authorize a certified nurse-midwife, a nurse practitioner, a
5 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous
drugs and devices.

6 9. Code section 4301 states:

7 The board shall take action against any holder of a license who is guilty of
8 unprofessional conduct or whose license has been issued by mistake. Unprofessional
conduct includes, but is not limited to, any of the following:

9 ...

10 (h) The administering to oneself, of any controlled substance, or the use of any
11 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
12 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.

13 ...

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

15

16
17 10. Health and Safety Code section 11170 states: "No person shall prescribe, administer,
18 or furnish a controlled substance for himself."

19 **COST RECOVERY**

20 11. Code section 125.3 states, in pertinent part, that the Board may request the licensee to
21 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

22 **DRUG**

23 12. Benzodiazepines are a Schedule IV controlled substance pursuant to Health and
24 Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and
25 Professions Code section 4022.

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1 **FACTUAL ALLEGATIONS**

2 13. On July 15, 2020, at approximately 6:10 p.m., officers with the Los Angeles Police
3 Department were dispatched to investigate a traffic collision, in which Respondent reportedly
4 struck another vehicle and failed to stop to exchange information. Officers arrived at the scene
5 and took statements from the involved parties. During the investigation, Respondent stated that
6 P-2 (reporting party) flagged him down while driving and informed him that he was involved in a
7 traffic collision. Respondent admitted to consuming two 24-ounce beers in his car and stopped
8 drinking around the time he was flagged down by P-2. Officers administered a series of field
9 sobriety tests, which Respondent was unable to successfully perform. Officers searched
10 Respondent's vehicle and recovered cannabis and a pipe. Respondent was arrested for driving
11 under the influence of alcohol (DUI) (Veh. Code, § 23152(a)). Respondent provided a blood
12 sample during processing, which tested positive for the presence of Benzodiazepines and
13 Cannabinoids.

14 14. On January 6, 2021, the Board generated a Patient Activity Report from the
15 Controlled Substances Utilization Review and Evaluation System (CURES), which revealed that
16 Respondent did not have a prescription for any controlled substances, including Benzodiazapines,
17 between January 6, 2018, and January 6, 2021.

18 15. In a written statement received by the Board on March 15, 2021, Respondent
19 admitted that he does not have a prescription and that he purchases the controlled substances on
20 the street.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Dangerous Use of a Controlled Substance)**

23 16. Respondent has subjected his registration to disciplinary action under Code section
24 4301, subdivision (h), for unprofessional conduct, because as more fully set forth, above,
25 Respondent unlawfully self-administered and used Benzodiazepines in a dangerous manner by
26 obtaining the controlled substance on the streets without a valid prescription.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Violation of State and Federal Laws Governing Controlled Substances**
3 **and Dangerous Drugs)**

4 17. Respondent has subjected his registration to disciplinary action under Code section
5 4301, subdivision (j), for unprofessional conduct, because he knowingly violated Business and
6 Professions Code sections 4059 and 4060; and Health and Safety Code section 11170, as more
7 fully set forth, above.

8 **PRAYER**

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

11 1. Revoking or suspending Pharmacy Technician Registration Number TCH 150553,
12 issued to Respondent Mark Anthony Martinez;

13 2. Ordering Respondent Mark Anthony Martinez to pay the Board of Pharmacy the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3; and,

16 3. Taking such other and further action as deemed necessary and proper.
17

18
19 DATED: 7/29/2021

Signature on File

20 ANNE SODERGREN
21 Executive Officer
22 Board of Pharmacy
23 Department of Consumer Affairs
24 State of California
25 *Complainant*

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