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

12 In the Matter of the Accusation Against:

13 **MELISSA CARDENAS**
14 13880 Sayre St., #55
Sylmar, CA 91342

15 **Pharmacy Technician Registration No.**
16 **TCH 105850**

17 Respondent.

Case No. 7214

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

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19 **FINDINGS OF FACT**

20 1. On or about November 18, 2021, Complainant Anne Sodergren, in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
22 filed Accusation No. 7214 against Melissa Cardenas (Respondent) before the Board of Pharmacy.
23 (Accusation attached as Exhibit A.)

24 2. On or about August 11, 2010, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 105850 to Respondent. The Pharmacy Technician Registration
26 was in full force and effect at all times relevant to the charges brought in Accusation No. 7214
27 and expired on September 30, 2021, and has not been renewed.

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1 3. On or about December 10, 2021, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 7214, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is: 13880 Sayre St., #55, Sylmar, CA 91342.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505(c) and/or Business and Professions Code section 124.

9 5. Government Code section 11506(c) states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the respondent
11 files a notice of defense . . . and the notice shall be deemed a specific denial of all
12 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
13 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
14 discretion may nevertheless grant a hearing.

15 6. The Board takes official notice of its records and the fact that Respondent failed to
16 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
17 waived her right to a hearing on the merits of Accusation No. 7214.

18 7. California Government Code section 11520(a) states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense . . . or to appear at
20 the hearing, the agency may take action based upon the respondent's express
21 admissions or upon other evidence and affidavits may be used as evidence without
22 any notice to respondent

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 7214,
28 finds that the charges and allegations in Accusation No. 7214, are separately and severally, found
to be true and correct by clear and convincing evidence.

 9. The Board finds that the actual costs for Investigation and Enforcement are
\$1,446.25 as of January 5, 2022.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Melissa Cardenas has subjected her Pharmacy Technician Registration No. TCH 105850 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Business and Professions Code section 4301(j) for violating section 4060 and California Code of Regulations, title 16, section 1770 (Unlawful Possession of a Controlled Substance on September 21, 2020); and

b. Business and Professions Code section 4301(j) for violating section 4060 and California Code of Regulations, title 16, section 1770 (Unlawful Possession of a Controlled Substance on March 9, 2019).

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 105850, issued to Respondent Melissa Cardenas, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on March 2, 2022.

It is so ORDERED on January 31, 2022.

FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

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DOJ Matter ID:LA2021604280

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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

12 In the Matter of the Accusation Against:

Case No. 7214

13 **MELISSA CARDENAS**

13880 Sayre St., #55
14 Sylmar, CA 91342

ACCUSATION

15 **Pharmacy Technician Registration No.**
TCH 105850

16 Respondent.
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19 **PARTIES**

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

22 2. On or about August 11, 2010, the Board issued Pharmacy Technician Registration
23 Number TCH 105850 to Melissa Cardenas (Respondent). The Pharmacy Technician Registration
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 September 30, 2021, 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. Section 4300 of the Code provides, in pertinent part, that every license issued by the Board is subject to discipline including suspension or revocation.

5. Section 4300.1 of the Code 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. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any 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 (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 be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

7. Section 4060 of the Code states, in pertinent part:

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 controlled substance by a manufacturer, wholesaler, third-party logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, 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.

8. 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 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

• • •

(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.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1770 states:

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 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 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.

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

11. Heroin is a Schedule I controlled substance as designated by Health and Safety Code section 11054(c)(11) and is categorized as a dangerous drug pursuant to Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Unlawful Possession of a Controlled Substance on September 21, 2020)

12. Respondent is subject to disciplinary action under Code section 4301(j) for violating section 4060, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent unlawfully possessed a controlled substance. The circumstances are that on or about September 21, 2020, a Burbank Police Department officer responded to possible man with a knife

1 chasing people. During the investigation, the officer recovered a black tar-like substance
2 resembling heroin and a pipe from Respondent's purse. Respondent admitted to using heroin on
3 and off for the past four years and most recently used about two months ago.

4 On or about January 21, 2021, in a criminal proceeding entitled *The People of the State of*
5 *California vs. Melissa Cardenas*, in Superior Court of California, County of Los Angeles, Case
6 Number 1BK00055, Respondent plead not guilty to violating Health and Safety Code section
7 11350(a) (possession of a controlled substance), a misdemeanor; and Health and Safety Code
8 section 11364(a) (possession of illegal drug paraphernalia), a misdemeanor. Respondent was
9 placed on deferred entry of judgment, pursuant to Penal code section 1000, for a period of 12 to
10 18 months and ordered to attend at least 35 narcotics anonymous meetings at the rate of one
11 meeting per week.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unlawful Possession of a Controlled Substance on March 9, 2019)**

14 13. Respondent is subject to disciplinary action under Code section 4301(j) for violating
15 section 4060, in conjunction with California Code of Regulations, title 16, section 1770, in that
16 Respondent unlawfully possessed a controlled substance. The circumstances are that on or about
17 March 9, 2019, a Glendale Police Department officer responded to a welfare check on two people
18 passed out in a vehicle involving Respondent. Respondent told the officer she had heroin in her
19 purse. The officer recovered a bindle containing a tar-like substance resembling heroin. A
20 narcotics test revealed heroin.

21 On or about June 10, 2019, in a criminal proceeding entitled *The People of the State of*
22 *California vs. Melissa Cardenas*, in Superior Court of California, County of Los Angeles, Case
23 Number 9GD01502, Respondent plead not guilty to violating Health and Safety Code section
24 11350(a) (possession of a controlled substance), a misdemeanor. Respondent completed
25 narcotics anonymous meetings. On or about December 12, 2019, the court dismissed the case
26 pursuant to Penal Code section 1385.

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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 105850, issued to Melissa Cardenas;
2. Ordering Melissa Cardenas 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 11/18/2021

Signature on File

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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