

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

Case No. 7609

DANIEL ANTHONY GAMEZ
1097 N. State Street #10
Hemet, CA 92543

DEFAULT DECISION AND ORDER

Pharmacy Technician License No. TCH
173315

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On December 13, 2023, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 7609 against Daniel Anthony Gamez (Respondent) before the Board. (Accusation attached as Exhibit A.)

2. On September 12, 2019, the Board issued Pharmacy Technician License No. TCH 173315 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 7609 and will expire on August 31, 2025, unless renewed.

3. On December 27, 2023, Complainant served Respondent by Certified and First Class Mail with copies of the Accusation No. 7609, Statement to Respondent, Notice of Defense,

1 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
2 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
3 Code section 4100, is required to be reported and maintained with the Board. Respondent's
4 address of record was and is 1097 N. State Street #10, Hemet, CA 92543.

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

7 5. Government Code section 11506(c) states:

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

13 6. The Board takes official notice of its records and the fact that Respondent failed to
14 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
15 waived his right to a hearing on the merits of Accusation No. 7609.

16 7. California Government Code section 11520(a) states:

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

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
24 finds that the charges and allegations in Accusation No. 7609, are separately and severally, found
25 to be true and correct by clear and convincing evidence.

26 9. The Board finds that the actual costs for Investigation and Enforcement are \$7,708.50
27 as of February 8, 2024.

28 **DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Daniel Anthony Gamez has
subjected his Pharmacy Technician License No. TCH 173315 to discipline.

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

Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 ERIN M. SUNSERI
Supervising Deputy Attorney General
3 AGUSTIN LOPEZ
Deputy Attorney General
4 State Bar No. 218717
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9461
7 Facsimile: (619) 645-2061
E-mail: Agustin.Lopez@doj.ca.gov
8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 7609

14 **DANIEL ANTHONY GAMEZ**
15 **1097 N. State Street #10**
Hemet, CA 92543

ACCUSATION

16 **Pharmacy Technician License No. TCH**
17 **173315**

18 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 (Department).

24 2. On September 12, 2019, the Board issued Pharmacy Technician License Number
25 TCH 173315 to Daniel Anthony Gamez (Respondent). The Pharmacy Technician License was in
26 full force and effect at all times relevant to the charges brought herein and will expire on August
27 31, 2025, unless renewed.

28 ///

1 **JURISDICTION**

2 3. Complainant brings this Accusation before the Board, under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 4. Section 4001, subdivision (a), provides that the Board is authorized to enforce the
6 Pharmacy Law (Bus. & Prof. Code § 4000 *et seq.*).

7 5. Section 4001.1 provides that the highest priority of the Board shall be the protection
8 of the public in exercising its licensing, regulatory, and disciplinary functions.

9 6. Section 4300, subdivision (a), provides that every license issued under the Pharmacy
10 Law may be suspended or revoked.

11 7. Section 4300.1 provides that the expiration, cancellation, forfeiture, voluntary
12 surrender, retired status, or suspension of a license shall not deprive the Board of jurisdiction to
13 commence or proceed with any investigation of, action, or disciplinary proceeding against the
14 licensee.

15 **STATUTORY PROVISIONS**

16 8. Section 4060 states:

17 No person shall possess any controlled substance, except that furnished to a
18 person upon the prescription of a physician, dentist, podiatrist, optometrist,
19 veterinarian, or naturopathic doctor pursuant to Section 3640.7, This section
20 shall not apply to the possession of any controlled substance by a manufacturer,
21 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
22 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
23 physician assistant, when in stock in containers correctly labeled with the name and
24 address of the supplier or producer.

25 Nothing in this section authorizes a certified nurse-midwife, a nurse
26 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
27 stock of dangerous drugs and devices.

28 9. Section 4301 states:

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:

...

///

1 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
2 deceit, or corruption, whether the act is committed in the course of relations as a
3 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

4 ...

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

7 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
8 abetting the violation of or conspiring to violate any provision or term of this chapter
9 or of the applicable federal and state laws and regulations governing pharmacy,
10 including regulations established by the board or by any other state or federal
11 regulatory agency.

12 ...

13 (q) Engaging in any conduct that subverts or attempts to subvert an
14 investigation of the board.

15 **REGULATORY PROVISIONS**

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

17 (a) For the purpose of denial, suspension, or revocation of a personal [] license
18 pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
19 Business and Professions Code, a crime, professional misconduct, or act shall be
20 considered substantially related to the qualifications, functions or duties of the
21 practice, profession, or occupation that may be performed under the license type
22 sought or held if to a substantial degree it evidences present or potential unfitness of
23 an applicant or licensee to perform the functions authorized by the license in a
24 manner consistent with the public health, safety, or welfare.

25 (b) In making the substantial relationship determination required under
26 subdivision (a) for a crime, the board will consider the following criteria:

27 (1) The nature and gravity of the offense;

28 (2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of the practice, profession, or occupation that may
be performed under the license type sought or held.

(c) For purposes of subdivision (a), substantially related crimes, professional
misconduct, or acts shall include, but are not limited to, those which:

(1) Violate or attempt to violate, directly or indirectly, or to aid, abet or
conspire to violate, any provision of law of this state, or any other jurisdiction,
governing the practice of pharmacy.

(2) Violate or attempt to violate, directly or indirectly, or to aid, abet or
conspire to violate, any provision of Chapter 13 (commencing with Section 801) of
Title 21 of the United States Code regulating controlled substances or any law of
this state, or any other jurisdiction, relating to controlled substances or dangerous
drugs.

1 investigator by suggesting that the controlled substances he illegally possessed were the
2 prescriptions he was delivering on behalf of his employer, rather than cocaine.

3 16. On June 21, 2023, Respondent was dishonest when the Board’s investigator
4 interviewed Respondent a second time about his arrest for cocaine. Respondent claimed, “the
5 cops found something I was unaware of.” He explained that his brother worked a job setting up
6 concert stages and would borrow Respondent’s car for work. Respondent added that his brother
7 often had strangers in the car, and Respondent thought one of them must have left the cocaine in
8 his vehicle.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Illegal Possession of a Controlled Substance)**

11 17. Complainant incorporates paragraphs 12-16 by reference as if set forth in full herein.

12 18. Respondent is subject to discipline under Section 4060 because he possessed cocaine,
13 a controlled substance, illegally without a prescription.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct – Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

16 19. Complainant incorporates paragraphs 12-16 by reference as if set forth in full herein.

17 20. Respondent is subject to discipline under Section 4301, subdivision (f), because
18 Respondent engaged in unprofessional conduct when he committed the following acts of moral
19 turpitude, dishonesty, fraud, deceit, or corruption:

20 a. On April 28, 2023, Respondent failed to disclose that MPD officers arrested him for
21 possession of cocaine;

22 b. On April 28, 2023, Respondent falsely suggested to the Board’s investigator that
23 MPD officers arrested him for possessing the prescriptions he was delivering to his employer’s
24 patients, instead of cocaine;

25 c. On June 21, 2023, Respondent attempted to mislead the Board’s investigator by
26 suggesting he was unaware he possessed cocaine on March 11, 2023; and

27 ///

28 ///

1 d. On June 21, 2023, Respondent attempted to mislead the Board’s investigator by
2 suggesting the cocaine he possessed belonged to others.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct - Violation of Statutes Regulating Controlled Substances)**

5 21. Complainant incorporates paragraphs 12-16 by reference as if set forth in full herein.

6 22. Respondent is subject to discipline under Section 4301, subdivision (j), because he
7 engaged in unprofessional conduct when he violated the statutes of this state regulating controlled
8 substances and dangerous drugs. Specifically, Respondent violated Health and Safety Code
9 section 11350, subdivision (a) (illegal possession of controlled substances), when he admitted to
10 possessing cocaine.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct - Subverting or Attempting to Subvert Board Investigation)**

13 23. Complainant incorporates paragraphs 12-16 by reference as if set forth in full herein.

14 24. Respondent is subject to discipline under Section 4301, subdivision (q), because
15 Respondent engaged in unprofessional conduct when he subverted or attempted to subvert the
16 Board’s investigation.

17 **PRAYER**

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

20 1. Revoking or suspending Pharmacy Technician License Number TCH 173315, issued
21 to Daniel Anthony Gamez;

22 2. Ordering Daniel Anthony Gamez to pay the Board of Pharmacy the reasonable costs
23 of the investigation and enforcement of this case, pursuant to Business and Professions Code
24 section 125.3; and,

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: 12/13/2023

Sodergren,
Anne@DCA

Digitally signed by
Sodergren, Anne@DCA
Date: 2023.12.13
19:46:13 -08'00'

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

SD2023802360
84251016.docx