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

In the Matter of the Accusation Against:

Case No. 7624

CELENA CONSUELO WALKER
7520 Rubens Parkway
Sacramento, CA 95823

DEFAULT DECISION AND ORDER

**Pharmacy Technician License No. TCH
192266**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about October 31, 2023, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 7624 against Celena Consuelo Walker (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about April 11, 2023, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 192266 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 7624 and will expire on October 31, 2024, unless renewed.

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1 3. On or about November 6, 2023, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 7624, Statement to Respondent, Notice of Defense, and
3 Request for Discovery at Respondent's address of record which, pursuant to Business and
4 Professions Code section 4100, is required to be reported and maintained with the Board.
5 Respondent's address of record was and is:

6 7520 Rubens Parkway
7 Sacramento, CA 95823.

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

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

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

16 6. The Board takes official notice of its records and the fact that Respondent failed to
17 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
18 waived her right to a hearing on the merits of Accusation No. 7624.

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

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

24 8. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
27 finds that the charges and allegations in Accusation No. 7624, are separately and severally, found
28 to be true and correct by clear and convincing evidence.

 9. The Board finds that the actual costs for Investigation and Enforcement are \$2,515.00
as of February 8, 2024.

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1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Celena Consuelo Walker has
3 subjected her Pharmacy Technician License No. TCH 192266 to discipline.

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

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

8 a. Business and Professions Code section 4301, subdivision (j)-Unlawful Possession of
9 Controlled Substance/Dangerous Drug

10 b. Business and Professions Code section 4301-Unprofessional Conduct for violating
11 laws regulating controlled substances and dangerous drugs as set forth in Code section 4060 and
12 11352 of the Health and Safety Code (transporting for sale).

13 **ORDER**

14 IT IS SO ORDERED that Pharmacy Technician License No. TCH 192266, issued to
15 Respondent Celena Consuelo Walker, is revoked.

16 Pursuant to Code section 4307, Respondent Celena Consuelo Walker shall be prohibited
17 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
18 of a licensee until Pharmacy Technician License Number TCH 192266 is reinstated.

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

23 This Decision shall become effective at 5:00 p.m. on May 3, 2024.

24 It is so ORDERED on April 3, 2024.

25 

26 _____
27 Seung W. Oh., Pharm.D.
28 Board President
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

37860497.DOCX
DOJ Matter ID:SA2023304228
Attachment: Exhibit A: Accusation

Exhibit A

Accusation

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7 *Attorneys for Complainant*

8
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. 7624

13 **CELENA CONSUELO WALKER**

14 7520 Rubens Parkway
Sacramento, CA 95823

ACCUSATION

15 **Pharmacy Technician License No. TCH**
16 **192266**

17 Respondent.

18 **PARTIES**

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

21 2. On or about April 11, 2023, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 192266 to Celena Consuelo Walker (Respondent). The Pharmacy
23 Technician License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on October 31, 2024, unless renewed.

25 **JURISDICTION**

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

1 4. Code section 4300, subdivision (a), states, “Every license issued may be suspended or
2 revoked.”

3 5. Code Section 4011 provides that the Board shall administer and enforce both the
4 Pharmacy Law (Bus. & Prof. Code, § 4000 *et seq.*) and the Uniform Controlled Substances Act
5 (Health & Safety Code, § 11000 *et seq.*).

6 6. Code section 4300.1 states:

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

11 STATUTORY PROVISIONS

12 7. Section 4301 of the Code states:

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

16 . . .

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

19 8. Section 4022 of the Code states:

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

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

24 (b) Any device that bears the statement: “Caution: federal law restricts this
25 device to sale by or on the order of a _____,” “Rx only,” or words of similar import,
26 the blank to be filled in with the designation of the practitioner licensed to use or
27 order use of the device.

28 (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.

9. Section 4060 of the Code 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, nurse practitioner practicing pursuant to Section 2837.103 or 2837.104,

1 or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug
2 order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
3 practitioner practicing pursuant to Section 2836.1, a physician assistant pursuant to
4 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
5 pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the
6 possession of any controlled substance by a manufacturer, wholesaler, third-party
7 logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
8 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
9 physician assistant, if in stock in containers correctly labeled with the name and
10 address of the supplier or producer.

11 This section does not authorize a certified nurse-midwife, a nurse practitioner
12 practicing pursuant to Section 2836.1, a physician assistant, or a naturopathic doctor,
13 to order their own stock of dangerous drugs and devices.

14 10. Section 4307, subdivision (a) of the Code states that:

15 Any person who has been denied a license or whose license has been revoked
16 or is under suspension, or who has failed to renew his or her license while it was
17 under suspension, or who has been a manager, administrator, owner member, officer,
18 director, associate, or partner of any partnership, corporation, firm, or association
19 whose application for a license has been denied or revoked, is under suspension or
20 has been placed on probation, and while acting as the manger, administrator, owner,
21 member, officer, director, associate, or partner had knowledge or knowingly
22 participated in any conduct for which the license was denied, revoked, suspended, or
23 placed on probation, shall be prohibited from serving as a manger, administrator,
24 owner, member, officer, director, associate, or partner of a licensee as follows:

25 (1) Where a probationary license is issued or where an existing license is placed
26 on probation, this prohibition shall remain in effect for a period not to exceed five
27 years.

28 (2) Where the license is denied or revoked, the prohibition shall continue until
the license is issued or reinstated.

11. Section 11351 of the Health and Safety Code states:

Except as otherwise provided in this division, every person who possesses for
sale or purchases for purposes of sale (1) any controlled substance specified in
subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20)
of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
substance classified in Schedule III, IV, or V which is a narcotic drug, shall be
punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal
Code for two, three, or four years.

12. Section 11352 of the Health and Safety Code states:

(a) Except as otherwise provided in this division, every person who transports,
imports into this state, sells, furnishes, administers, or gives away, or offers to
transport, import into this state, sell, furnish, administer, or give away, or attempts to
import into this state or transport (1) any controlled substance specified in subdivision
(b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in

1 paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in
2 subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
3 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a
4 narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist,
5 or veterinarian licensed to practice in this state, shall be punished by imprisonment
6 pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five
7 years.

8 . . .

9 (c) For purposes of this section, “transports” means to transport for sale.

10 **REGULATORY PROVISIONS**

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

12 (a) For the purpose of denial, suspension, or revocation of a personal or facility
13 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
14 Business and Professions Code, a crime, professional misconduct, or act shall be

15 considered substantially related to the qualifications, functions or duties of the
16 practice, profession, or occupation that may be performed under the license type
17 sought or held if to a substantial degree it evidences present or potential unfitness of
18 an applicant or licensee to perform the functions authorized by the license in a
19 manner consistent with the public health, safety, or welfare.

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

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

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

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

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

28 (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.

. . .

4 **COST RECOVERY**

13. Code section 125.3 provides, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate 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 licentiate to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **DEFINITIONS**

4 14. **Fentanyl**, is an Opiate which is classified as a Schedule II controlled substances
5 pursuant to Health and Safety Code section 11055, subdivision (c)(8), and is a dangerous drug
6 within the meaning of Code section 4022. It is used in the treatment of pain.

7 **FACTUAL ALLEGATIONS**

8 15. On June 7, 2023, a Deputy with the El Dorado County Sheriff's Office stopped a
9 vehicle that was traveling at a high rate of speed. The driver of the vehicle, identified by their
10 California driver's license as Respondent, pulled over and followed commands to exit her vehicle.
11 During the traffic stop, another officer arrived with a K-9 to perform an "open air sniff" on
12 Respondent's vehicle. The K-9 provided a positive alert detecting the odor of illicit drugs.
13 Respondent stated she did not have anything illegal in her vehicle after she was informed of the
14 positive alert. During a search of Respondent's vehicle, a white plastic baggie containing 1,044
15 tablets, later tested and identified as Fentanyl, were located under the passenger seat. It was
16 determined the pills had a value between \$15,660 and \$20,880. A black money divider was found
17 sitting on the right passenger seat containing \$866 in cash. In addition, four cellphones were
18 found in the vehicle. Respondent had received approximately 10 to 15 text messages on her
19 cellphones during the traffic stop.

20 16. During questioning, Respondent stated she does not use pills and only smokes
21 marijuana. Respondent claimed to not have any knowledge of the Fentanyl tablets found inside of
22 her vehicle. She further explained she had left her residence and was on her way to Harrah's
23 Casino in Lake Tahoe where she planned to gamble and spend the night prior to the stop.
24 Respondent was placed under arrest and booked on charges of violating felony Health and Safety
25 Code section 11351 - Possess/Purchase for Sale Narcotic/Controlled Substance and felony Health
26 and Safety Code section 11352(a) - Transport/Sell Narcotic/Controlled Substance.

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28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 **Unlawful Possession of Controlled Substance/Dangerous Drug**

4 17. Respondent is subject to disciplinary action under Code section 4301, subdivision (j)
5 for violating laws regulating controlled substances and dangerous drugs as set forth in Code
6 sections 4060 and section 11351 of the Health and Safety Code, in that Respondent had 1,044
7 Fentanyl tablets in her possession for sale,, as further set forth in paragraphs 14-15, above.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct-Transporting for Sale)**

10 18. Respondent is subject to disciplinary action under Code section 4301 for violating
11 laws regulating controlled substances and dangerous drugs as set forth in Code section 4060 and
12 11352 of the Health and Safety Code in that Respondent was found to be in possession of 1,044
13 Fentanyl tablets, which she was transporting for sale, as further set forth in paragraphs 14-15,
14 above.

15 **OTHER MATTERS**

16 19. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Technician
17 License Number TCH 192266 issued to Celena Consuelo Walker, Celena Consuelo Walker shall
18 be prohibited from serving as a manager, administrator, owner, member, officer, director,
19 associate, or partner of a licensee for five years if Pharmacy Technician License Number TCH
20 192266 is placed on probation or until Pharmacy Technician License Number TCH 192266 is
21 reinstated if it is revoked.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Technician License Number TCH 192266, issued
26 to Celena Consuelo Walker;

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28 ///

