

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

In the Matter of the Accusation Against:

DAMARIS URIARTE, Respondent.

Pharmacy Technician License No. TCH 111887

Agency Case No. 7633

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 July 18, 2024.

It is so ORDERED on June 18, 2024.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
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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. 7633

14 **DAMARIS URIARTE**
15 **3930 Hidden Ln,**
Riverside, CA 92506.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Pharmacy Technician License No. TCH**
17 **111887**

Respondent.

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

23 **PARTIES**

24 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
25 (Board). She brought this action solely in her official capacity and is represented in this matter by
26 Rob Bonta, Attorney General of the State of California, by Diane Von Der Ahe, Deputy Attorney
27 General.
28

1 **CULPABILITY**

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 7633, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
4 License No. TCH 111887 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation she enables the Board to issue
6 an order accepting the surrender of her Pharmacy Technician License without further process.

7 **CONTINGENCY**

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

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

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

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

28 ///

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 111887, issued to Respondent Damaris Uriarte, is surrendered and accepted by the Board.

1. The surrender of Respondent's Pharmacy Technician License 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 her pocket license and, if one was issued, her 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 petition is filed, and all of the charges and allegations contained in Accusation No. 7633 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 not apply for licensure for three (3) years from the effective date of the Board's Decision and Order.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$4,605.50 prior to issuance of a new or reinstated license.

7. 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. 7633 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.

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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 License. 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: _____
DAMARIS URIARTE
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
MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General

DIANE VON DER AHE
Deputy Attorney General
Attorneys for Complainant

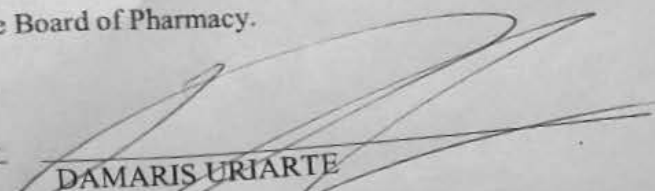
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DATED: 4-12-24


DAMARIS URIARTE
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
MARICHELE S. TAHIMIC
Supervising Deputy Attorney General

DIANE VON DER AHE
Deputy Attorney General
Attorneys for Complainant

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DATED: _____
DAMARIS URIARTE
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: 4/12/24 _____
Respectfully submitted,
ROB BONTA
Attorney General of California
MARICHELLE S. TAHIMIC
~~Supervising Deputy Attorney General~~
Diane Von Der Ahe
DIANE VON DER AHE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 7633

1 ROB BONTA
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2 MARICHELE S. TAHIMIC
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3 DIANE VON DER AHE
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Attorneys for Complainant

8
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. 7633

14 **DAMARIS URIARTE**
15 **3930 Hidden Ln,**
Riverside, CA 92506.

ACCUSATION

16 **Pharmacy Technician License No. TCH**
17 **111887**

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 2. On or about March 29, 2011, the Board issued Pharmacy Technician License Number
24 TCH 111887 to Damaris Uriarte (Respondent). The Pharmacy Technician License was in full
25 force and effect at all times relevant to the charges brought herein and will expire on January 31,
26 2025, unless renewed.

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1 **JURISDICTION**

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

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

8 5. Code section 4300, subdivision (a) provides that every license issued by the Board
9 may be suspended or revoked.

10 6. Code section 4300.1 states:

11 The expiration, cancellation, forfeiture, or suspension of a board-issued license
12 by operation of law or by order or decision of the board or a court of law, the
13 placement of a license on a retired status, or the voluntary surrender of a license by a
14 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.

15 **STATUTORY PROVISIONS**

16 7. Code section 490 states:

17 (a) In addition to any other action that a board is permitted to take against a
18 licensee, a board may suspend or revoke a license on the ground that the licensee
19 has been convicted of a crime, if the crime is substantially related to the
20 qualifications, functions, or duties of the business or profession for which the
license was issued.

21 (b) Notwithstanding any other provision of law, a board may exercise any
22 authority to discipline a licensee for conviction of a crime that is independent of
23 the authority granted under subdivision (a) only if the crime is substantially related
to the qualifications, functions, or duties of the business or profession for which
the licensee's license was issued.

24 (c) A conviction within the meaning of this section means a plea or verdict
25 of guilty or a conviction following a plea of nolo contendere. An action that a
26 board is permitted to take following the establishment of a conviction may be
27 taken when the time for appeal has elapsed, or the judgment of conviction has been
28 affirmed on appeal, or when an order granting probation is made suspending the
imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
the Penal Code.

1 8. Code section 4060 states:

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

14 ...

15 9. Code section 4301 states:

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

19 ...

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

22 ...

23 (l) The conviction of a crime substantially related to the qualifications,
24 functions, and duties of a licensee under this chapter. The record of conviction of
25 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
26 States Code regulating controlled substances or of a violation of the statutes of this
27 state regulating controlled substances or dangerous drugs shall be conclusive
28 evidence of unprofessional conduct. In all other cases, the record of conviction
shall be conclusive evidence only of the fact that the conviction occurred. The
board may inquire into the circumstances surrounding the commission of the
crime, in order to fix the degree of discipline or, in the case of a conviction not
involving controlled substances or dangerous drugs, to determine if the conviction
is of an offense substantially related to the qualifications, functions, and duties of a
licensee under this chapter. A plea or verdict of guilty or a conviction following a
plea of nolo contendere is deemed to be a conviction within the meaning of this
provision. The board may take action when the time for appeal has elapsed, or the
judgment of conviction has been affirmed on appeal or when an order granting
probation is made suspending the imposition of sentence, irrespective of a
subsequent order under Section 1203.4 of the Penal Code allowing the person to

1 withdraw their plea of guilty and to enter a plea of not guilty, or setting aside the
2 verdict of guilty, or dismissing the accusation, information, or indictment.

3 ...

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

9 ...

10 10. Health and Safety Code section 11351 provides:

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

19 ...

20 11. Health and Safety Code section 11370.4, in relevant part, provides:

21 (a)(1) A person convicted of a violation of, or of a conspiracy to violate,
22 Section 11351, 11351.5, or 11352 with respect to a substance containing heroin,
23 fentanyl, cocaine base as specified in paragraph (1) of subdivision (f) of Section
24 11054, or cocaine as specified in paragraph (6) of subdivision (b) of Section 11055,
25 when the person knew of the substance's nature or character as a controlled
26 substance, shall receive an additional term as follows:

27 (A) If the substance exceeds one kilogram by weight, the person shall
28 receive an additional term of three years.

...

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1769, subdivision (c), states:

When considering the suspension or revocation of a facility or a personal license
on the ground that the licensee has been convicted of a crime, the board will consider
whether the licensee made a showing of rehabilitation and is presently fit for a license,
if the licensee completed the criminal sentence at issue without a violation of parole or

1 probation. In making this determination, the board will consider the criteria in
2 subdivisions (b)(1)(A) through (E). If the licensee has not completed the criminal
3 sentence at issue without a violation of parole or probation or the board determines that
4 the licensee did not make the showing of rehabilitation based on the criteria in
5 subdivisions (b)(1)(A) through (E), the board will apply the following criteria in
6 evaluating the licensee's rehabilitation:

7 (1) Nature and gravity of the act(s) or offenses.

8 (2) Total criminal record.

9 (3) The time that has elapsed since commission of the act(s) or offenses.

10 (4) Whether the licensee has complied with all terms of parole, probation,
11 restitution or any other sanctions lawfully imposed against the licensee.

12 (5) The criteria in subdivisions (b)(1)(A) through (E), as applicable.

13 (6) Evidence, if any, of rehabilitation submitted by the licensee, including as
14 provided in the board's Disciplinary Guidelines, identified in section 1760.

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

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

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

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

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

28 (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 (3) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to
2 violate, any provision of law of this state, or any other jurisdiction, relating to government
provided or government supported healthcare.

3 (4) Involve dishonesty, fraud, deceit, or corruption related to money, items,
4 documents, or personal information.

5 (5) Involve a conviction for driving under the influence of drugs or alcohol.

6 **COST RECOVERY**

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

11 **FACTUAL ALLEGATIONS**

12 15. On June 22, 2023, in a criminal proceeding entitled *People v. Damaris Uriarte* in
13 Riverside County Superior Court, case number RIF2203149, Respondent was convicted on her
14 guilty plea of violating Health & Safety Code section 11351(a), (unlawful possession of
15 controlled substance for sale, to wit, Fentanyl), a felony. Respondent admitted the enhancement
16 for possessing more than one kilogram pursuant to Health & Safety Code section 11370.4,
17 subdivision (a)(1)¹. The court sentenced Respondent to two years in county jail to be served one
18 year in custody, and one year on mandatory supervision.

19 16. The facts and circumstances that led to the conviction are that on December 13, 2021,
20 detectives with the Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force
21 (LA IMPACT) were conducting an investigation in the area of Riverside County near Riverwalk
22 Parkway, California. Detectives observed Respondent in the parking lot inside her vehicle, and
23 observed as she displayed a white paper bag that was later determined to contain two kilogram-
24 sized packages of controlled substances. Respondent moved her vehicle to another area of the
25 parking lot and went inside the building. Detectives then went into the medical building complex
26 and located Respondent, who was working as a pharmacy technician and wearing her employee

27 ¹ Health and Safety Code section 11370.1 has been re-numbered and updated, effective
28 January 1, 2024. Respondent's admission pursuant to section 11370.1(a)(1) in 2023 would be
pursuant to section 11370.1(a)(1)(A) today.

1 badge with her name on it. Detectives questioned Respondent and she provided consent to search
2 her vehicle. A narcotics K-9 alerted to controlled substances in the trunk of Respondent's
3 vehicle, where officers located two vacuum-sealed clear plastic packages. Respondent admitted
4 she had more packages at her home, but claimed she had no knowledge of what was in the
5 packages. Detectives responded to Respondent's home and located additional controlled
6 substances inside her bedroom under her bed and in her closet. In total, Respondent was found to
7 be in possession of 6.45 kilograms of fentanyl, 598 grams of heroin, 196.08 grams hydrocodone,
8 22.52 grams of morphine sulphate, 4,000 counterfeit "M-30" Oxycodone pills, various
9 prescriptions not prescribed to Respondent, and \$161,845.00 in cash.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Conviction of a Substantially Related Crime)**

12 17. Respondent has subjected her license to disciplinary action under Code section 4301,
13 subdivision (l), in that she was convicted of a crime substantially related to the qualifications,
14 functions, and duties of a pharmacy technician, as set forth in paragraphs 15 through 16,
15 incorporated herein.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Unlawful Possession of a Controlled Substance)**

18 18. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
19 in conjunction with Health and Safety Code section 11351, for violation of statutes regulating
20 controlled substances, in that on December 13, 2021, Respondent was found in possession of a
21 controlled substance, fentanyl, as set forth in paragraphs 15 through 16, incorporated herein.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Violations of the Pharmacy Law)**

24 19. Respondent is subject to discipline under Section 4301, subdivision (o), in
25 conjunction with Business and Professions Code section 4060, in that Respondent unlawfully
26 possessed controlled substances, as set forth in paragraphs 15 through 18, incorporated herein.

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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 issue a decision:

1. Revoking or suspending Pharmacy Technician License Number TCH 111887, issued to Damaris Uriarte;
2. Ordering Damaris Uriarte to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 1/31/2024

Sodergren,
Anne@DCA

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Sodergren, Anne@DCA
Date: 2024.01.31 19:35:40
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ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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