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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:

Case No. 7659

13 **DARLINE MENDOZA**
14 **11111 Arroyo Ave.**
Hesperia, CA 92345

DEFAULT DECISION AND ORDER

15 **Pharmacy Technician Registration No. TCH**
16 **131734**

[Gov. Code, §11520]

17 Respondent.
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20 **FINDINGS OF FACT**

21 1. On or about October 31, 2023, Complainant Anne Sodergren, in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
23 Accusation No. 7659 against Darline Mendoza (Respondent) before the Board of Pharmacy.
24 (Accusation attached as Exhibit A.)

25 2. On or about May 21, 2013, the Board of Pharmacy (Board) issued Pharmacy
26 Technician Registration No. TCH 131734 to Respondent. The Pharmacy Technician Registration
27 was in full force and effect at all times relevant to the charges brought in Accusation No. 7659
28 and will expire on July 31, 2024, unless renewed.

1 3. On or about November 9, 2023, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 7659, 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 11111 Arroyo Ave. Hesperia, CA 92345.

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. 7659.

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 finds that the charges and allegations in Accusation No. 7659, are separately and severally, found
27 to be true and correct by clear and convincing evidence.

28 9. The Board finds that the actual costs for Investigation and Enforcement are \$1,725.00
as of December 8, 2023.

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1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Darline Mendoza has subjected
3 her Pharmacy Technician Registration No. TCH 131734 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 Registration based upon the following violations alleged in the Accusation which are supported
7 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

8 a. Substantially-Related Criminal Conviction [Business and Professions Code sections
9 490 and 4301(l)];

10 b. Dangerous Use of Alcohol [Business and Professions Code section 4301(h)]; and

11 c. Failure to Notify Board of Address Change [Business and Professions Code section
12 4300].

13 **ORDER**

14 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 131734, issued to
15 Respondent Darline Mendoza, is revoked.

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

20 This Decision shall become effective at 5:00 p.m. on February 21, 2024.

21 It is so ORDERED on January 22, 2024.

22 BOARD OF PHARMACY DEPARTMENT
23 OF CONSUMER AFFAIRS
24 STATE OF CALIFORNIA

25 66435310.DOCX
26 DOJ Matter ID:LA2023604017

By



27 Attachment:
28 Exhibit A: Accusation

Seung W. Oh, Pharm.D.
Board President

Exhibit A

Accusation

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Supervising Deputy Attorney General
3 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
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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. 7659

13 **DARLINE MENDOZA**

11111 Arroyo Ave.
14 Hesperia, CA 92345

ACCUSATION

15 **Pharmacy Technician Registration No.**
TCH 131734

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 May 21, 2013, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 131734 to Darline Mendoza (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on July 31, 2024, 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 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 4100 of the Code states:

Within 30 days after changing his or her address of record with the board or after changing his or her name according to law, a pharmacist, intern pharmacist, technician, designated representative, designated representative-3PL, or designated representative-reverse distributor shall notify the executive officer of the board of the change of address or change of name.

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 includes, but is not limited to, any of the following:

...

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

...

1 (I) The conviction of a crime substantially related to the qualifications,
2 functions, and duties of a licensee under this chapter. The record of conviction of a
3 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
4 States Code regulating controlled substances or of a violation of the statutes of this
5 state regulating controlled substances or dangerous drugs shall be conclusive
6 evidence of unprofessional conduct. In all other cases, the record of conviction shall
7 be conclusive evidence only of the fact that the conviction occurred. The board may
8 inquire into the circumstances surrounding the commission of the crime, in order to
9 fix the degree of discipline or, in the case of a conviction not involving controlled
10 substances or dangerous drugs, to determine if the conviction is of an offense
11 substantially related to the qualifications, functions, and duties of a licensee under this
12 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
13 contendere is deemed to be a conviction within the meaning of this provision. The
14 board may take action when the time for appeal has elapsed, or the judgment of
15 conviction has been affirmed on appeal or when an order granting probation is made
16 suspending the imposition of sentence, irrespective of a subsequent order under
17 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
18 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
19 dismissing the accusation, information, or indictment.

20 . . .

21 **REGULATORY PROVISIONS**

22 9. California Code of Regulations, title 16, section 1770(a) states:

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

29 **COST RECOVERY**

30 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
31 administrative law judge to direct a licensee found to have committed a violation or violations of
32 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
33 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
34 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
35 included in a stipulated settlement.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(August 15, 2022 Criminal Conviction - DUI and Child Endangerment on August 10, 2021)**

3 11. Respondent is subject to disciplinary action under Code sections 490 and 4301(l), in
4 conjunction with California Code of Regulations, title 16, section 1770(a), in that on or about
5 August 15, 2022, in a criminal proceeding entitled *The People of the State of California vs.*
6 *Darlene Mendoza*, in Superior Court of California, County of San Bernardino, Case No.
7 MVI22002739, Respondent pled nolo contendere and was convicted of violating Vehicle Code
8 section 23152(b) (driving with a .08% blood alcohol content), a misdemeanor; and Penal Code
9 section 273a(b) (cruelty to child by endangering health), a misdemeanor. Respondent was
10 sentenced to serve one day in jail, placed on probation for 36 months with terms and conditions,
11 ordered to complete an alcohol education program, complete 30 hours of community service, and
12 pay fines and fees.

13 The circumstances surrounding the conviction are that on or about August 10, 2021, at
14 approximately 12:10 a.m., a California Highway Patrol officer conducted a traffic enforcement
15 stop involving Respondent. The officer observed Respondent's 13-year-old daughter and 4-year-
16 old son in the vehicle. Upon speaking to Respondent, the officer noticed the odor of an alcoholic
17 beverage emitting from her breath and person and glassy watery eyes. Respondent admitted to
18 consuming alcoholic beverages prior to driving. At approximately 4:02 a.m., Respondent
19 submitted to a blood sample that revealed a blood alcohol concentration of 0.141%.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Dangerous Use of Alcohol)**

22 12. Respondent is subject to disciplinary action under Code section 4301(h), on the
23 grounds of unprofessional conduct, in that on or about August 10, 2021, Respondent used
24 alcoholic beverages to the extent or in a manner as to be dangerous or injurious to herself, any
25 other person, or the public, as alleged above in paragraph 11.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Notify Board of Address Change)**

3 13. Respondent is subject to disciplinary action under Code section 4100, in that
4 Respondent failed to notify the Board of a change of address within 30 days after changing the
5 address. On or about April 11, 2022, the Board mailed Respondent a letter to her address of
6 record. The envelope was returned to the Board on April 14, 2022 indicating forward time
7 expired, return to sender, and a different address. On or about September 16, 2022, a second
8 letter was mailed to Respondent's address of record by certified mail. The envelope was returned
9 to the Board on September 23, 2022 as return to sender, unclaimed, and unable to forward.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Technician Registration Number TCH 131734,
14 issued to Darline Mendoza;
- 15 2. Ordering Darline Mendoza to pay the Board of Pharmacy the reasonable costs of the
16 investigation and enforcement of this case, pursuant to Business and Professions Code section
17 125.3; and
- 18 3. Taking such other and further action as deemed necessary and proper.
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21 DATED: 10/31/2023

Sodergren,
Anne@DCA