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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. 7696

13 **MARGARITA CHRISTINA AGUIRRE-**
14 **GARCIA**

1713 Ohio Street
Redlands, CA 92374

DEFAULT DECISION AND ORDER

15 **Pharmacy Technician License No. TCH**
16 **91006**

[Gov. Code, §11520]

17
18 Respondent.

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20 **FINDINGS OF FACT**

21 1. On or about April 5, 2024, Complainant Anne Sodergren, in her official capacity as
22 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
23 Accusation No. 7696 against Margarita Christina Aguirre-Garcia (Respondent) before the Board
24 of Pharmacy. (Accusation attached as Exhibit A.)

25 2. On or about June 17, 2009, the Board of Pharmacy (Board) issued Pharmacy
26 Technician License No. TCH 91006 to Respondent. The Pharmacy Technician License expired
27 on January 31, 2023, and was canceled on June 4, 2023.

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1 3. On or about April 5, 2024, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 7696, Statement to Respondent, Notice of Defense (two blank
3 copies), Request for Discovery, and Discovery Statutes (Government Code section 11507.5,
4 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
5 Professions Code section 4100, is required to be reported and maintained with the Board.
6 Respondent's address of record was and is:

7 1713 Ohio Street
8 Redlands, CA 92374.

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

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

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

17 6. The Board takes official notice of its records and the fact that Respondent failed to
18 file a Notice of Defense within 15 days after service upon her of the Accusation and therefore
19 waived her right to a hearing on the merits of Accusation No. 7696.

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

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

25 8. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
28 finds that the charges and allegations in Accusation No. 7696 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 \$2,346.25
as of May 20, 2024.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Margarita Christina Aguirre-
3 Garcia has subjected her Pharmacy Technician License No. TCH 91006 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
7 the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

8 a. Business and Professions Code section 4301(f) and (j), in that on or about October 31,
9 2022, Respondent was arrested by a San Bernardino Court Sheriff's deputy for a violation of
10 Health and Safety Code section 11377, possession of a controlled substance/dangerous drug to
11 wit: methamphetamine in the amount of 0.94 net grams.

12 b. Business and Professions Code section 4301(f), in that on or about January 20, 2023,
13 a criminal proceeding entitled *The People of the State of California v. Margarita Christina*
14 *Aguirre-Garcia*, was filed in Superior Court of California, County of San Bernardino, Case No.
15 MSB23001099, for a violation of Health and Safety Code section 11364(a), possession of drug
16 paraphernalia, a misdemeanor. On March 6, 2023, Respondent failed to appear for her
17 arraignment in Department 6, and a bench warrant was issued that remains active.

18 **ORDER**

19 IT IS SO ORDERED that Pharmacy Technician License No. TCH 91006, issued to
20 Respondent Margarita Christina Aguirre-Garcia, is revoked.

21 Pursuant to Business and Professions Code section 4307, Respondent Margarita Christina
22 Aguirre-Garcia is prohibited from serving as a manager, administrator, owner, member, officer,
23 director, associate, or partner of a licensee for five years if Pharmacy Technician Number TCH
24 91006 is placed on probation or until Pharmacy Technician License Number TCH 91006 is
25 reinstated if it is revoked.

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

5 This Decision shall become effective at 5:00 p.m. on August 1, 2024.

6 It is so ORDERED on July 2, 2024.

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8 BOARD OF PHARMACY
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 By



12 Seung W. Oh, Pharm. D.
13 Board President
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23 66802449_2.DOCX
24 DOJ Matter ID: LA2023604751

25 Attachment:
26 Exhibit A: Accusation
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Exhibit A

Accusation

(MARGARITA CHRISTINA AGUIRRE-GARCIA)

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7 *Attorneys for Complainant*

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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. 7696

13 **MARGARITA CHRISTINA AGUIRRE-**
14 **GARCIA**
15 **1713 Ohio Street**
Redlands, CA 92374

ACCUSATION

16 **Pharmacy Technician License**
17 **Number TCH 91006**

Respondent.

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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, Department of Consumer Affairs.

23 2. On or about June 17, 2009, the Board of Pharmacy issued Pharmacy Technician
24 License Number TCH 91006 to Margarita Christina Aguirre-Garcia (Respondent). The Pharmacy
25 Technician License expired on January 31, 2023, and was canceled on June 4, 2023.

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1 **JURISDICTION**

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

5 4. Section 4300 of the Code states, in pertinent part, that every license issued by the
6 Board is subject to discipline, including suspension or revocation.

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 4301 of the Code states in pertinent part:

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

16 . . .

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

19 . . .

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

22 **REGULATORY PROVISIONS**

23 7. California Code of Regulations, title 16, section 1770 states in pertinent part:

24 (a) For the purpose of denial, suspension, or revocation of a personal or facility
25 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
26 Business and Professions Code, a crime, professional misconduct, or act shall be
27 considered substantially related to the qualifications, functions or duties of the practice,
28 profession, or occupation that may be performed under the license type 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.

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

- (1) The nature and gravity of the offense;
- (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.

COST RECOVERY

8. Section 125.3 of the Code states, 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.

9. DRUG CLASSIFICATION

BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER B&P CODE § 4022	CONTROLLED SUBSTANCE PER B&P CODE § 4021 AND H&S CODE § 11055(D)(2)	INDICATION FOR USE
Desoxyn	Methamphetamine	Yes	Yes	Obesity, ADHD, Narcolepsy (off-label)

FACTUAL ALLEGATIONS

10. On October 31, 2022, a San Bernardino deputy sheriff approached a silver PT Chrysler PT-Cruiser in response to a neighborhood complaint of a parked vehicle with traffic collision damage in Crestmore, San Bernardino County. The deputy parked behind the PT-Cruiser and noticed Respondent in the front passenger seat. During contact, he asked Respondent if she had consumed any street drugs recently. She replied she only smoked marijuana but admitted that one week before, she had smoked methamphetamine. The deputy asked if she had any drugs or anything illegal inside her vehicle, and she replied only marijuana. The deputy conducted a consensual search of Respondent's vehicle and discovered a small backpack. He asked if she had any illegal items inside the backpack, and she replied only marijuana. Then, the deputy looked toward the vehicle's center console and saw the lid open. He noticed a small zip-top bag containing two small crystalline rocks. Based on the deputy's training and experience, he

1 determined the substance to be methamphetamine and to be a usable quantity for personal use.
2 Respondent was arrested for possession of drugs and was booked at the West Valley Detention
3 Center.

4 11. Later, a chemical test revealed the crystalline substance was positive for
5 methamphetamine, weighing 0.94 net grams, a usable quantity.

6 12. On January 5, 2023, in a separate matter, during a traffic stop of a silver PT Cruiser
7 near Victoria Avenue and 14th Street in Highland, San Bernardino County, the deputy sheriff
8 contacted a male driver at the driver's side door. Respondent was seated in the passenger seat. A
9 consensual search of Respondent's purse revealed a plastic tube containing a white residue
10 substance. Respondent admitted the tube was used for methamphetamine and was placed under
11 arrest and cite-released to appear in court on March 6, 2023, for a violation of Health and Safety
12 Code section 11364, subdivision (a), possession of drug paraphernalia, a misdemeanor, San
13 Bernardino Superior Court Case No. MSB23001099.

14 13. On March 6, 2023, Respondent failed to appear at the hearing and a bench warrant
15 was issued that remains active.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(An Act Involving Moral Turpitude and Unlawful Possession of a Controlled**
18 **Substance/Dangerous Drug)**

19 14. Respondent is subject to disciplinary action under Code section 4301, subdivisions (f)
20 and (j), for unprofessional conduct for an act involving moral turpitude and unlawful possession
21 of a controlled substance and dangerous drug. Specifically, on October 31, 2022, Respondent was
22 arrested by a San Bernardino Court Sheriff's deputy for a violation of Health and Code section
23 11377, possession of a controlled substance, to wit: methamphetamine, in the amount of 0.94 net
24 grams, Report Number 132300073. Complainant refers to, and by this reference incorporates, the
25 allegations set forth above in paragraphs 10-11, as though set forth fully.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

3 15. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
4 for unprofessional conduct involving moral turpitude, dishonesty, fraud, deceit, or Corruption, in
5 conjunction with California Code of Regulations, title 16, section 1770. Specifically, on January
6 20, 2023, a misdemeanor complaint was filed in the Superior Court of California, County of San
7 Bernardino, against Respondent in *The People of the State of California v. Margarita Christina*
8 *Aguirre*, Case Number MSB23001099, for a violation of Health and Safety Code section 11364,
9 subdivision (a), possession of drug paraphernalia, a misdemeanor. On March 6, 2023, Respondent
10 failed to appear for her arraignment in Department 6, and a bench warrant was issued that remains
11 active. Complainant refers to, and by this reference incorporates, the allegations set forth above in
12 paragraphs 12-13, as though set forth fully.

13 **OTHER MATTERS**

14 16. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Technician
15 License Number TCH 91006 issued to Margarita Christina Aguirre-Garcia, Respondent
16 Margarita Christina Aguirre-Garcia shall be prohibited from serving as a manager, administrator,
17 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
18 Technician License Number TCH 91006 is placed on probation or until Pharmacy Technician
19 License Number TCH 91006 is reinstated if it is revoked.

20 **PRAYER**

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

23 1. Revoking Pharmacy Technician License Number TCH 91006, issued to Margarita
24 Christina Aguirre-Garcia;

25 2. Prohibiting Margarita Christina Aguirre-Garcia from serving as a manager,
26 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
27 Pharmacy Technician License Number TCH 91006 is placed on probation or until Pharmacy
28 Technician License Number TCH 91006 is reinstated if it is revoked;

1 3. Ordering Margarita Christina Aguirre-Garcia to pay the Board of Pharmacy the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and, if placed on probation, the costs of probation monitoring;
4 and,

5 4. Taking such other and further action as deemed necessary and proper.

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7 DATED: 4/2/2024

Sodergren,
Anne@DCA

Digitally signed by
Sodergren, Anne@DCA
Date: 2024.04.02 21:24:03
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ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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