

1
2
3
4
5
6
7
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. 7701

13 **GENEVIEVE JOSEPHINE MARTINEZ**
14 1350 Broadstone Parkway, #2911
Folsom, CA 95630

DEFAULT DECISION AND ORDER

15 **Pharmacy Technician License No. TCH**
16 **172415**

[Gov. Code, §11520]

17 Respondent.
18

19
20 **FINDINGS OF FACT**

21 1. On or about February 19, 2024, 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. 7701 against Genevieve Josephine Martinez (Respondent) before the Board of
24 Pharmacy (Board). (Accusation attached as Exhibit A.)

25 2. On or about June 3, 2019, the Board issued Pharmacy Technician License No. TCH
26 172415 to Respondent. The Pharmacy Technician License was in full force and effect at all times
27 relevant to the charges brought in Accusation No. 7701 and will expire on November 30, 2024,
28 unless renewed.

1 3. On or about February 23, 2024, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 7701, 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:

7 1350 Broadstone Parkway, #2911
8 Folsom, CA 95630.

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
14 parts 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. 7701.

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
22 the hearing, the agency may take action based upon the respondent's express
23 admissions or upon other evidence and affidavits may be used as evidence without
24 any notice to 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. 7701, 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 \$4,652.75 as of
April 9, 2024.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Genevieve Josephine Martinez has subjected her Pharmacy Technician License No. TCH 172415 to discipline.

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

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

a. Respondent is subject to discipline under Business and Professions Code (Code) sections 490 and 4301, subdivision (l), in that on or about December 20, 2022, in the case *The People of the State of California v. Genevieve Josephine Martinez*, Sacramento Superior Court Case No. 22MI014694, Respondent was convicted by the court on a plea of nolo contendere of violating Vehicle Code section 23152, subdivision (b), (driving a vehicle with a blood alcohol content of 0.08% or higher), a misdemeanor, with an enhancement of Vehicle Code section 23538, subdivision (b)(2) (having a blood alcohol content of 0.20% or higher). Further, based on the underlying conduct of administering to herself alcoholic beverages to the extent and/or in a manner as to be dangerous to herself or others, Respondent is subject to discipline under Code section 4301, subdivision (h).

b. Respondent is subject to discipline under Code sections 490 and 4301, subdivision (l), in that on or about April 13, 2023, in the case *The People of the State of California v. Genevieve Josephine Martinez*, Sacramento Superior Court Case No. 20MI015906, Respondent was convicted by the court on a plea of nolo contendere of violating Penal Code section 273a, subdivision (b), (willful cruelty to a child), a misdemeanor. Further, based on the underlying conduct of assaulting her minor daughter while under the influence of alcohol and committing acts involving moral turpitude, dishonesty, fraud, deceit or corruption, Respondent is subject to discipline under Code section 4301, subdivisions (f) and (h).

c. Respondent is subject to disciplinary action under Code section 4301, subdivisions (f) and (h), for administering to herself alcoholic beverages to the extent and/or in a manner as to be dangerous to herself or others and committing acts involving moral turpitude, dishonesty, fraud,

deceit or corruption, in that Respondent, while under the influence of alcohol, physically assaulted her boyfriend on at least two separate occasions.

ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 172415, issued to Respondent Genevieve Josephine Martinez, is revoked.

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

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

It is so ORDERED on July 2, 2024.

FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Seung W. Oh

Seung W. Oh, Pharm.D.
Board President

37997975.DOCX
DOJ Matter ID:SA2023305974

Attachment:
Exhibit A: Accusation

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

Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
3 JEFF STONE
Deputy Attorney General
4 State Bar No. 155190
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7726
Facsimile: (916) 327-8643
7 E-mail: Jeff.Stone@doj.ca.gov
Attorneys for Complainant
8

9 **BEFORE THE**
10 **BOARD OF PHARMACY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**
13

14 In the Matter of the Accusation Against:

Case No. 7701

15 **GENEVIEVE JOSEPHINE MARTINEZ**
1350 Broadstone Parkway, #2911
16 Folsom, CA 95630

ACCUSATION

17 **Pharmacy Technician License No. TCH**
18 **172415**

Respondent.

19
20
21 **PARTIES**

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

24 2. On or about June 3, 2019, the Board issued Pharmacy Technician License Number
25 TCH 172415 to Genevieve Josephine Martinez (Respondent). The Pharmacy Technician License
26 was in full force and effect at all times relevant to the charges brought herein and will expire on
27 November 30, 2024, unless renewed.

28 ///

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. Code section 4011 provides that the Board shall administer and enforce both the Pharmacy Law [Code section 4000 et seq.] and the Uniform Controlled Substances Act [Health and Safety Code section 11000 et seq.].

5. Code section 4032 defines “license” to include any license, permit, registration, certificate or exemption issued by the Board.

6. Code section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

...

(7) Compliance with laws and regulations governing the practice of pharmacy.

...

(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

1 10. Code section 490 states:

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

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

11 (c) A conviction within the meaning of this section means a plea or verdict of
12 guilty or a conviction following a plea of nolo contendere. Any action that a board is
13 permitted to take following the establishment of a conviction may be taken when the
14 time for appeal has elapsed, or the judgment of conviction has been affirmed on
15 appeal, or when an order granting probation is made suspending the imposition of
16 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
17 the Penal Code.

18 (d) The Legislature hereby finds and declares that the application of this section
19 has been made unclear by the holding in *Petropoulos v. Department of Real Estate*
20 (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant
21 number of statutes and regulations in question, resulting in potential harm to the
22 consumers of California from licensees who have been convicted of crimes.
23 Therefore, the Legislature finds and declares that this section establishes an
24 independent basis for a board to impose discipline upon a licensee, and that the
25 amendments to this section made by Chapter 33 of the Statutes of 2008 do not
26 constitute a change to, but rather are declaratory of, existing law.

27 11. Code section 493 states, in pertinent part:

28 (a) Notwithstanding any other law, in a proceeding conducted by a board within
the department pursuant to law to deny an application for a license or to suspend or
revoke a license or otherwise take disciplinary action against a person who holds a
license, upon the ground that the applicant or the licensee has been convicted of a
crime substantially related to the qualifications, functions, and duties of the licensee
in question, the record of conviction of the crime shall be conclusive evidence of the
fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the
qualifications, functions, or duties of the business or profession the board regulates
shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of
conviction without considering evidence of rehabilitation.

(c) As used in this section, "license" includes "certificate," "permit,"

1 “authority,” and “registration.”

2 ...

3 12. Code Section 4301 states, in pertinent part:

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

6 ...

7 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
8 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

9 ...

10 (h) The administering to oneself, of any controlled substance, or the use of any
11 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous
12 or injurious to oneself, to a person holding a license under this chapter, or to any other
13 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.

12 ...

13 (i) The conviction of a crime substantially related to the qualifications, functions,
14 and duties of a licensee under this chapter. The record of conviction of a violation of
Chapter 13 (commencing with Section 801) of Title 21 of the United States Code

15 controlled substances or dangerous drugs shall be conclusive evidence of
16 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
17 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

18 the qualifications, functions, and duties of a licensee under this chapter. A plea or
19 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
20 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,
21 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the

22 aside the verdict of guilty, or dismissing the accusation, information, or indictment.

23 ...

24 **REGULATORY PROVISIONS**

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

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

(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.
- (3) 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, relating to government provided or government supported healthcare.
- (4) Involve dishonesty, fraud, deceit, or corruption related to money, items, documents, or personal information.
- (5) Involve a conviction for driving under the influence of drugs or alcohol.

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Convictions of Substantially Related Crimes)

15. Respondent is subject to discipline under Code sections 490 and 4301, subdivision (I), in that on or about December 20, 2022, in the case *The People of the State of California v. Genevieve Josephine Martinez*, Sacramento Superior Court Case No. 22MI014694, Respondent

1 was convicted by the court on a plea of nolo contendere of violating Vehicle Code section 23152,
2 subdivision (b), (driving a vehicle with a blood alcohol content of 0.08% or higher), a
3 misdemeanor, with an enhancement of Vehicle Code section 23538, subdivision (b)(2) (having a
4 blood alcohol content of 0.20% or higher). The circumstances of the crime are that on or about
5 July 1, 2022, at approximately 11:55 p.m., Respondent lost control of her vehicle and collided
6 with two other vehicles. Law enforcement officers observed Respondent to have objective
7 symptoms of alcohol intoxication, including the odor of alcohol, red/watery eyes, slurred speech,
8 unsteady gait, and inability to satisfactorily perform Field Sobriety Tests, which were not
9 completed for Respondent's safety due to her "extremely inebriated state". Respondent submitted
10 to a blood test at approximately 1:15 a.m. July 2, 2022, with a result of a blood alcohol content of
11 0.29%. Respondent was sentenced to 30 days in jail or work release, a 9-month Alcohol
12 Program, three years of probation, and ordered to pay fines and penalties or serve four additional
13 days in jail. The crime is substantially related to the qualifications, functions or duties of a
14 licensed pharmacy technician.

15 16. Further, Respondent is subject to discipline under Code sections 490 and 4301,
16 subdivision (l), in that on or about April 13, 2023, in the case *The People of the State of*
17 *California v. Genevieve Josephine Martinez*, Sacramento Superior Court Case No. 20MI015906,
18 Respondent was convicted by the court on a plea of nolo contendere of violating Penal Code
19 section 273a, subdivision (b), (willful cruelty to a child), a misdemeanor. The circumstances of
20 the crime are that on or about August 27, 2020, Respondent, intoxicated on alcohol, pushed her
21 14-year old daughter to the ground and punched her daughter in the face approximately 4-5 times,
22 among other things. The victim stated that Respondent had previously been sober, but resumed
23 drinking on the date of the incident. Respondent admitted to having pushed and hit the victim
24 before becoming verbally aggressive with officers and refusing to answer further questions.
25 Respondent was sentenced to four days in jail, a 52-week parenting class, four years of probation,
26 and ordered to pay a fine. The crime is substantially related to the qualifications, functions or
27 duties of a licensed pharmacy technician.

28 ///

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Use of Alcohol Dangerous to Oneself or Others)

17. Respondent is subject to disciplinary action under Code section 4301, subdivision (h), for administering to herself alcoholic beverages to the extent and/or in a manner as to be dangerous to herself or others, in that on or about July 1, 2022, Respondent drove a vehicle with a blood alcohol content of 0.29%, as set forth more fully above in paragraph 15 and incorporated herein.

18. Further, Respondent is subject to disciplinary action under Code section 4301, subdivision (h), for administering to herself alcoholic beverages to the extent and/or in a manner as to be dangerous to herself or others, in that on or about August 27, 2020, while under the influence of alcohol, Respondent assaulted her minor daughter, as set forth more fully above in paragraph 16 and incorporated herein.

19. Finally, Respondent is subject to disciplinary action under Code section 4301, subdivision (h), for administering to herself alcoholic beverages to the extent and/or in a manner as to be dangerous to herself or others, in that on or about March 14, 2023, Respondent, while under the influence of alcohol, became angry with her boyfriend and punched him in the mouth, resulting in a small cut to the victim's upper lip. Respondent attempted to hit the victim a second time, but missed. The victim stated that Respondent has a "heavy" drinking problem and had been drinking all that day. The victim stated Respondent had been physically violent towards him multiple times over their six-month relationship but that he had not reported these prior incidents because "he is a man". The victim provided law enforcement with a picture of a prior injury that was sustained by him during a physical altercation with Respondent on or about February 22, 2023. Respondent was arrested for felony violation of Penal Code section 273.5, subdivision (a) (inflicting corporal injury on a spouse/cohabitant).

///

///

///

///

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct - Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or
3 Corruption)

4 20. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
5 for committing acts involving moral turpitude, dishonesty, fraud, deceit or corruption, in that, on
6 or about August 27, 2020, Respondent, while intoxicated on alcohol, pushed her 14-year old
7 daughter to the ground and punched her daughter in the face approximately 4-5 times, among
8 other things, as set forth more fully above in paragraph 16 and incorporated herein.

9 21. Further, Respondent is subject to disciplinary action under Code section 4301,
10 subdivision (f) for committing acts involving moral turpitude, dishonesty, fraud, deceit or
11 corruption, in that, on or about February 22, 2023 and March 14, 2023, Respondent, while under
12 the influence of alcohol, became angry with her boyfriend and assaulted him, as set forth more
13 fully above in paragraph 19 and incorporated by reference.

14 **PRAYER**

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

17 1. Revoking or suspending Pharmacy Technician License Number TCH 172415, issued
18 to Genevieve Josephine Martinez;

19 2. Ordering Genevieve Josephine Martinez to pay the Board of Pharmacy the reasonable
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions
21 Code section 125.3; and, if placed on probation, the costs of probation monitoring; and,

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

23
24 DATED: 2/19/2024

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2024.02.19 14:44:04
-08'00'

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

28 SA2023305974/37831991.docx