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**BEFORE THE  
BOARD OF PHARMACY**

**DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:  
  
**MELISSA POUNGFOUA YANG**  
**125 Lipizzan Dr.**  
**San Jacinto, CA 92582**  
  
**Pharmacy Technician Registration No. TCH**  
**101302**  
  
Respondent.

Case No. 7866  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about September 2, 2024, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 7866 against Melissa Pougfoua Yang (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about April 26, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 101302 to Respondent. The Pharmacy Technician Registration

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1 was in full force and effect at all times relevant to the charges brought in Accusation No. 7866  
2 and will expire on July 31, 2025, unless renewed.

3 3. On or about September 5, 2024, Respondent was served by Certified and First-Class  
4 Mail copies of the Accusation No. 7866, Statement to Respondent, Notice of Defense, Request  
5 for Discovery and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
7 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
8 record was and is: 125 Lipizzan Dr., San Jacinto, California 92582.

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. 7866.

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. 7866, 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 \$2,577.75  
as of October 28, 2024.

**DETERMINATION OF ISSUES**

1  
2       1.     Based on the foregoing findings of fact, Respondent Melissa Pougfoua Yang has  
3 subjected her Pharmacy Technician Registration No. TCH 101302 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.     Respondent is subject to discipline under Code sections 490 and 4301, subdivision (l),  
9 for her criminal conviction in *The People of the State of California v. Melissa*

10       *Pougfoua Yang, aka Melissa Pougfoua Yang, aka Melissa Pougfoua Butista; aka*  
11       *Melissa P. Yang*, in Riverside County Superior Court, Case Number BAM 2201543.

12       b.     Respondent is subject to discipline under Code section 4301, subdivision (k), for  
13 unprofessional conduct.

14       c.     Respondent is subject to discipline under Code section 4301, subdivision (h), for  
15 unprofessional conduct, because she used alcohol in a manner dangerous to herself  
16 and others by operating a vehicle while having a BAC of .17%, over two times the  
17 legal limit.

18       d.     Respondent is subject to discipline Code section 4301, subdivision (g), for  
19 unprofessional conduct, because she failed to disclose her February 3, 2023,  
20 conviction for DUI when she provided her online renewal payment on July 26, 2023.

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**ORDER**

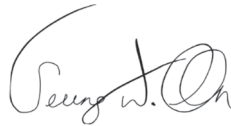
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 101302, issued to Respondent Melissa Pongfoua Yang, is revoked.

Upon revocation per this Order, under Business and Professions Code section 4307, subdivision (a), Respondent shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or serving in any other position with management or control of a licensee. This prohibition shall continue until the license is issued or reinstated.

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 January 16, 2025.

It is so ORDERED on December 17, 2024.



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

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DOJ Matter ID:SD2024802073

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 ROB BONTA  
Attorney General of California  
2 ERIN M. SUNSERI  
Supervising Deputy Attorney General  
3 AMIE J. FLYNN  
Deputy Attorney General  
4 State Bar No. 149600  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9337  
7 Facsimile: (619) 645-2061  
*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. 7866

14 **MELISSA POUNGFOUA YANG**  
15 **125 Lipizzan Dr.**  
**San Jacinto, CA 92582**

**ACCUSATION**

16 **Pharmacy Technician License No. TCH**  
17 **101302**

18 Respondent.

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 April 26, 2010, the Board issued Pharmacy Technician License Number  
23 TCH 101302 to Melissa Pougfoua Yang (Respondent). The Pharmacy Technician License was  
24 in full force and effect at all times relevant to the charges brought herein and will expire on July  
25 31, 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), states, “Every license issued may be suspended or  
9 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 placement  
13 of a license on a retired status, or the voluntary surrender of a license by a licensee shall  
14 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 482 states:

17 (a) Each board under this code shall develop criteria to evaluate the rehabilitation  
18 of a person when doing either of the following:

19 (1) Considering the denial of a license by the board under Section 480.

20 (2) Considering suspension or revocation of a license under Section 490.

21 (b) Each board shall consider whether an applicant or licensee has made a  
22 showing of rehabilitation if either of the following are met:

23 (1) The applicant or licensee has completed the criminal sentence at issue  
without a violation of parole or probation.

24 (2) The board, applying its criteria for rehabilitation, finds that the applicant  
is rehabilitated.

25 ....

26 8. Code section 490 provides, in pertinent part, that a board may suspend or revoke a  
27 license on the ground that the licensee has been convicted of a crime substantially related to the  
28 qualifications, functions, or duties of the business or profession for which the license was issued.

1 9. Code section 493 states:

2 (a) Notwithstanding any other law, in a proceeding conducted by a board within  
3 the department pursuant to law to deny an application for a license or to suspend or  
4 revoke a license or otherwise take disciplinary action against a person who holds a

5 license, upon the ground that the applicant or the licensee has been convicted of a crime  
6 substantially related to the qualifications, functions, and duties of the licensee in  
7 question, the record of conviction of the crime shall be conclusive evidence of the fact  
8 that the conviction occurred, but only of that fact.

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

12 (A) The nature and gravity of the offense.

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

14 (C) The nature and duties of the profession.

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

17 (c) As used in this section, “license” includes “certificate,” “permit,” “authority,”  
18 and “registration.”

19 ....

20 10. Code section 4301 states:

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

24 ...

25 (g) Knowingly making or signing any certificate or other document that falsely  
26 represents the existence or nonexistence of a state of facts.

27 (h) The administering to oneself, of any controlled substance, or the use of any  
28 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.

...

(l) The conviction of a crime substantially related to the qualifications, functions,  
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  
regulating controlled substances or of a violation of the statutes of this state regulating  
controlled substances or dangerous drugs shall be conclusive 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

1 circumstances surrounding the commission of the crime, in order to fix the degree of  
2 discipline or, in the case of a conviction not involving controlled substances or  
3 dangerous drugs, to determine if the conviction is of an offense substantially related to  
4 the qualifications, functions, and duties of a licensee under this chapter. A plea or  
5 verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a  
6 conviction within the meaning of this provision. The board may take action when the  
7 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal  
8 or when an order granting probation is made suspending the imposition of sentence,  
9 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the  
10 person to withdraw their plea of guilty and to enter a plea of not guilty, or setting aside  
11 the verdict of guilty, or dismissing the accusation, information, or indictment.

12 ....

13 11. Code section 4307 states:

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

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

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

(b) "Manager, administrator, owner, member, officer, director, associate,  
partner, or any other person with management or control of a license" as used in this  
section and Section 4308, may refer to a pharmacist or to any other person who  
serves in such capacity in or for a licensee.

(c) The provisions of subdivision (a) may be alleged in any pleading filed  
pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of  
the Government Code. However, no order may be issued in that case except as to a  
person who is named in the caption, as to whom the pleading alleges the  
applicability of this section, and where the person has been given notice of the  
proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of  
Division 3 of the Government Code. The authority to proceed as provided by this  
subdivision shall be in addition to the board's authority to proceed under Section  
4339 or any other provision of law.

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1 **REGULATORY PROVISIONS**

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

3 When considering the suspension or revocation of a facility or a personal  
4 license on the ground that the licensee has been convicted of a crime, the board will  
5 consider whether the licensee made a showing of rehabilitation and is presently fit for  
6 a license, if the licensee completed the criminal sentence at issue without a violation  
7 of parole or probation. In making this determination, the board will consider the  
8 criteria in subdivisions (b)(1)(A) through (E). If the licensee has not completed the  
9 criminal sentence at issue without a violation of parole or probation or the board  
10 determines that the licensee did not make the showing of rehabilitation based on the  
11 criteria in subdivisions (b)(1)(A) through (E), the board will apply the following  
12 criteria in evaluating the licensee's rehabilitation:

- 13 (1) Nature and gravity of the act(s) or offenses.
- 14 (2) Total criminal record.
- 15 (3) The time that has elapsed since commission of the act(s) or offenses.
- 16 (4) Whether the licensee has complied with all terms of parole, probation,  
17 restitution or any other sanctions lawfully imposed against the licensee.
- 18 (5) The criteria in subdivisions (b)(1)(A) through (E), as applicable.
- 19 (6) Evidence, if any, of rehabilitation submitted by the licensee, including as  
20 provided in the board's Disciplinary Guidelines, identified in section 1760.

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

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

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

4 **COST RECOVERY**

5 14. Code section 125.3 provides, in pertinent part, that the Board may request the  
6 administrative law judge to direct a licentiate found to have committed a violation or violations of  
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
8 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
9 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
10 included in a stipulated settlement.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(February 3, 2023 Criminal Conviction for Driving Under the Influence on April 6, 2022)**

13 15. Respondent has subjected her Pharmacy Technician License to disciplinary action  
14 under Code sections 490 and 4301, subdivision (l), in that on February 3, 2023, in a criminal  
15 proceeding entitled *The People of the State of California v. Melissa Poungfoua Yang, aka Melissa*  
16 *Poungfoua Yang, aka Melissa Poungfoua Butista; aka Melissa P. Yang*, in Riverside County  
17 Superior Court, Case Number BAM 2201543, Respondent was convicted on her plea of guilty of  
18 driving a vehicle while having a blood alcohol concentration (BAC) of 0.08 percent and more  
19 (Vehicle Code, § 23152, subdivision (b)), a misdemeanor. The Court found and Respondent  
20 admitted to the enhanced allegation of driving with a BAC of .15 percent or more, (Vehicle  
21 Code, § 23578). The court further found that Respondent had two prior criminal convictions for  
22 driving under the influence (DUI), one on May 24, 2018, and another conviction for wet reckless  
23 on November 22, 2016, within the meaning of Vehicle Code, § 23546, subdivision (a)). The  
24 court certified Respondent had a BAC of .17 percent. The court placed Respondent on summary  
25 probation for 60 months, with certain terms and conditions, including an enhanced nine-month  
26 First-Offender DUI Program, completion of 116 days in the work release program, completion of  
27 40 hours of AA meetings, and commitment to the Riverside Sheriff for four days, with four days

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1 of credit for time served. Respondent was also ordered to install an ignition interlock device on  
2 her vehicle for a period of 24 months, and, pay various court fines in the amount of \$2,154.00.

3 16. The circumstances that led to the conviction are that on April 6, 2022, at  
4 approximately 9:15 p.m., a Riverside County Sheriff Deputy was dispatched to assist with a solo  
5 vehicle collision in the residential area of Warwick Street in the San Jacinto. Upon arrival, the  
6 officer observed two parked vehicles with damage and a third vehicle later determined to be  
7 driven by Respondent. Respondent admitted to the officer that she veered to the right and  
8 collided into two parked vehicles. During questioning, the officer could see that Respondent had  
9 red watery eyes and could smell an odor of alcoholic beverage from her breath and person.  
10 Respondent attempted to perform field sobriety tests, but was unable to do so successfully.  
11 Respondent agreed to a preliminary alcohol screening which came back with a BAC of .17  
12 percent, and she was subsequently arrested for DUI. The investigating officer concluded that  
13 Respondent made a sharp turn and collided with the parked vehicle causing the first vehicle to hit  
14 the second vehicle.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Alcohol-Related Criminal Conviction)**

17 17. Respondent has subjected her Pharmacy Technician License to disciplinary action  
18 under Code section 4301, subdivision (k), for unprofessional conduct, in that on February 3,  
19 2023, Respondent was convicted of a felony involving the consumption of alcoholic beverages, as  
20 set forth above in paragraphs 15 and 16 above, incorporated herein by reference.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Dangerous Use of Alcohol on April 6, 2022)**

23 18. Respondent has subjected her Pharmacy Technician License to disciplinary action  
24 under Code section 4301, subdivision (h), for unprofessional conduct, because she used alcohol in  
25 a manner dangerous to herself and others by operating a vehicle while having a BAC of .17%,  
26 over two times the legal limit, as set forth above in paragraphs 15 and 16 above, incorporated  
27 herein by reference.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 19. Respondent has subjected her Pharmacy Technician License to disciplinary action  
4 under Code section 4301, subdivision (g), for unprofessional conduct, because she failed to  
5 disclose her February 3, 2023, conviction for DUI when she provided her online renewal payment  
6 on July 26, 2023.

7 **PRIOR CITATIONS**

8 20. To determine the degree of discipline, if any, to be imposed on Respondent,  
9 Complainant further alleges the following:

10 a. On or about April 4, 2017, the Board issued Citation Number CI 2016-73169 for  
11 violating Code section 4301, subdivision (h) and (1), after Respondent was convicted on March  
12 22, 2017 of violating Vehicle Code section 23103.5 (wet reckless driving).

13 b. On or about January 29, 2019, the Board issued Citation Number CI 2017-80287 for  
14 violating Code section 4301, subdivisions (g), (h), (k) and (l), after Respondent was convicted on  
15 January 23, 2019 of violating Vehicle Code section 23152, subdivision (b), driving with a blood  
16 alcohol content of .08 percent or more, a misdemeanor.

17 **OTHER MATTERS**

18 21. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Technician  
19 License Number TCH 101302, issued to Melissa Pongfoua Yang, she shall be prohibited from  
20 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a  
21 licensee for five years if Pharmacy Technician License Number TCH 101302 is placed on  
22 probation or until the Pharmacy Technician License Number TCH 101302 is reinstated if it is  
23 revoked.

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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 101302, issued to Melissa Pongfoua Yang;

2. Prohibiting Melissa Pongfoua Yang from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Technician License Number TCH 101302 is placed on probation or until the Pharmacy Technician License is reinstated, if it is revoked;

3. Ordering Melissa Pongfoua Yang to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and, if placed on probation, the costs of probation monitoring; and,

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

DATED: 9/2/2024

**Sodergren,  
Anne@DCA**  
ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

Digitally signed by  
Sodergren, Anne@DCA  
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