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

In the Matter of the Accusation Against:

JENNIFER CUNANAN MATIAS
1100 Silk Oak Dr.,
Suisun City, CA 94585

Original Pharmacy Technician Registration
No. TCH 73435

Respondent.

Case No. 7096

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 7, 2021, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 7096 against Jennifer Cunanan Matias (Respondent) before the Board.

(Accusation attached as Exhibit A.)

2. On or about December 11, 2006, the Board issued Original Pharmacy Technician Registration No. TCH 73435 to Respondent. The Original Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 7096 and will expire on June 30, 2022, unless renewed.

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1 3. On or about March 12, 2021, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 7096, 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: 1100 Silk Oak Dr., Suisun City, CA 94585.

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. 7096.

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 as well as taking official notice of all the investigatory reports, exhibits and statements contained
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 7096,
28 finds that the charges and allegations in Accusation No. 7096, 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 \$3,986.00
as of April 2, 2021.

DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Jennifer Cunanan Matias has
3 subjected her Original Pharmacy Technician Registration No. TCH 73435 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 Original Pharmacy
6 Technician Registration based upon the following violations alleged in the Accusation which are
7 supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this
8 case:

9 a. Business and Professions Code sections 490 and 4301(l) – conviction of an offense
10 substantially related to the qualifications, functions, and duties of a licensed pharmacy technician;

11 b. Business and Professions Code section 4301(f) – unprofessional conduct for
12 committing acts involving moral turpitude, dishonesty, fraud, deceit, or corruption by unlawfully
13 diverting controlled substances and/or narcotics from her place of employment; and

14 b. Business and Professions Code section 4301(h) – unprofessional conduct for
15 administering to herself a controlled substance and/or dangerous drug in a manner as to be
16 dangerous or injurious to herself, to a person holding a license under this chapter, or to any other
17 person or to the public.

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ORDER


IT IS SO ORDERED that Original Pharmacy Technician Registration No. TCH 73435, issued to Respondent Jennifer Cunanan Matias, 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 June 16, 2021.

It is so ORDERED on May 17, 2021.

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

By 

Greg Lippe
Board President

42624703.DOCX
DOJ Matter ID:SF2021400187

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 XAVIER BECERRA
Attorney General of California
2 CHAR SACHSON
Supervising Deputy Attorney General
3 CARLA L. CHEUNG
Deputy Attorney General
4 State Bar No. 291562
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-4459
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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. 7096

13 **JENNIFER CUNANAN MATIAS**
1100 Silk Oak Dr.,
14 Suisun City, CA 94585

ACCUSATION

15 Original Pharmacy Technician Registration
16 No. TCH 73435

Respondent.

17
18 **PARTIES**

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

21 2. On or about December 11, 2006, the Board issued Original Pharmacy Technician
22 Registration Number TCH 73435 to Jennifer Cunanan Matias (Respondent). The Original
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought herein and will expire on June 30, 2022, unless renewed.

25 **JURISDICTION**

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

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4. Section 4307 of the Code states:

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

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

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

6. 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.

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1 9. Section 490 of the Code 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 10. Section 493 of the Code states:

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

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

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

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

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

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

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

3 ...

4 **REGULATORY PROVISIONS**

5 11. California Code of Regulations, title 16, section 1770, states:

6 For the purpose of denial, suspension, or revocation of a personal or facility
7 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
8 Professions Code, a crime or act shall be considered substantially related to the
9 qualifications, functions or duties of a licensee or registrant if to a substantial degree
10 it evidences present or potential unfitness of a licensee or registrant to perform the
11 functions authorized by his license or registration in a manner consistent with the
12 public health, safety, or welfare.

13 **COST RECOVERY**

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

18 **FACTUAL ALLEGATIONS**

19 13. Between about April 2020 and October 2020, during the course of her employment as
20 a pharmacy technician at the Walgreens pharmacy in El Cerrito, California, Respondent
21 unlawfully diverted thousands of pills, including opioid and narcotic pain medications.
22 Specifically, Respondent took one hundred sixty-six (166) generic Tylenol #3 (Acetaminophen
23 with 30mg codeine), two hundred twenty-nine (229) generic Tylenol #4 (Acetaminophen with
24 60mg codeine), two thousand two hundred forty-five (2,245) Tramadol 50mg, three hundred
25 seventy-four (374) Hydrocodone, and three hundred twenty-three (323) Oxycodone and
26 acetaminophen.¹ The combined value of the stolen pills amounts to approximately \$4,229.11.

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¹ Tylenol #3 and Tylenol #4 are narcotic analgesics used to treat mild to moderate pain. Tramadol is an opioid analgesic used to treat moderate to moderately severe pain. Hydrocodone is an opioid analgesic used to treat chronic, severe pain, commonly sold under the brand name Norco. Oxycodone and acetaminophen is an opioid analgesic used to treat severe pain, commonly sold under the brand name Percocet. Each is a dangerous drug pursuant to Code section 4022.

1 14. Respondent admitted to Walgreens asset management personnel that she sold the
2 stolen pills to strangers for money. Respondent admitted to an El Cerrito police officer that she
3 stole the pills for her own consumption, that she developed an addiction to pills, and would take
4 them before starting work. Respondent further admitted that she allowed her friends to take the
5 pills that Respondent had stolen for free.

6 15. On or about January 28, 2021, in the matter of *the People of the State of California v.*
7 *Jennifer Cunanan Matias*, Contra Costa County Superior Court Case No. 2-333533-8,
8 Respondent was convicted by her plea of no contest of violating Penal Code sections 508
9 [embezzlement] and 487(a) [grand theft], as a misdemeanor. The imposition of sentence was
10 suspended and Respondent was placed on probation for 1 year, ordered to complete 120 hours of
11 community service or 15 days in the county jail, obey all laws, pay restitution, stay away from all
12 Walgreens locations, and pay court fines. As a condition of her probation, Respondent may not
13 possess controlled substances or narcotics without a valid prescription.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Crime)**

16 16. Respondent is subject to disciplinary action under Code sections 490 and 4301(l) in
17 that she was convicted of an offense substantially related to the qualifications, functions, and
18 duties of a licensed pharmacy technician, as set forth above in paragraphs 13-15.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct - Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

21 17. Respondent is subject to disciplinary action under Code section 4301(f) for
22 unprofessional conduct, in that she committed acts involving moral turpitude, dishonesty, fraud,
23 deceit, or corruption by unlawfully diverting controlled substances and/or narcotics from her
24 place of employment and sold them, consumed them, and/or gave them away, as set forth above
25 in paragraphs 13-14.

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THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Administering Controlled Substances and/or Dangerous Drugs)

18. Respondent is subject to disciplinary action under Code section 4301(h) for unprofessional conduct, in that she administering to herself a controlled substance and/or dangerous drug in a manner as to be dangerous or injurious to herself, 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 Respondent’s ability to conduct with safety to the public the practice authorized by her license by unlawfully diverting controlled substances and/or dangerous drugs from her place of employment and consuming them before starting work as a pharmacy technician, as set forth above in paragraphs 13-14.

PRAYER

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

1. Revoking or suspending Original Pharmacy Technician Registration Number TCH 73435, issued to Jennifer Cunanan Matias;
2. Ordering Jennifer Cunanan Matias to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 3/7/2021

Signature on File

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

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