

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE</b>
<b>JOEVANY GERARDO MARTINEZ</b>	*	<b>MARYLAND BOARD</b>
<b>Registration No: T16956</b>	*	<b>OF PHARMACY</b>
<b>Respondent</b>	*	<b>Case No.: 20-007</b>

\* \* \* \* \*

**CONSENT ORDER**

On September 18, 2019, the Maryland Board of Pharmacy (“the Board”) charged **JOEVANY GERARDO MARTINEZ**, Pharmacy Technician (“Pharm Tech”), Registration No.: **T16956**, under the Maryland Pharmacy Act, (the “Act”) Md. Code Ann., Health Occ. (“Health Occ.”) §§ 12-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

The Board charged the respondent with violating the following provisions of the Act:

**§ 12-6B-09. Grounds for reprimand or denial, probation, suspension, or revocation of registration.**

Subject to the hearing provision of § 12-315 of this title, the Board may . . . reprimand a registered pharmacy technician, place any pharmacy technician’s registration on probation, or suspend or revoke a registered pharmacy technician’s registration if the . . . pharmacy technician registrant:

- ...
- (22) Pleaded guilty or nolo contendere to, or has been found guilty of, a felony or a crime involving moral turpitude, regardless of whether:
  - (i) An adjudication of guilt or sentencing or imposition of sentence is withheld; or
  - (ii) Any appeal or other proceeding is pending regarding the matter[.]

On October 9, 2019, the Respondent, along with his attorney Shawn Larson, Esquire, and Karen Malinowski, Administrative Prosecutor, attended a Case resolution Conference (“CRC”) with members of the Board in an effort to resolve the pending charges

in lieu of an evidentiary hearing. As a result of the CRC, the Respondent and the State agreed to enter into this Consent Order consisting of Findings of Fact, Conclusions of Law and Order.

**I. FINDINGS OF FACT**

The Board finds:

1. At all times relevant hereto, the Respondent was registered to practice as a Pharmacy Technician in the State of Maryland. The Respondent was first registered as a Pharmacy Technician in Maryland on or about September 9, 2015. The Respondent's registration expires on May 31, 2021.
2. On or about May 28, 2019, the Respondent renewed his pharmacy technician registration ("Renewal"). On the Respondent's Renewal, he answered "yes" to question 7: "Excluding minor traffic violations, are you currently under arrest or released on bond, or are there any current or pending charges against you in any court of law?"
3. The Respondent submitted a follow-up email that stated in part:

My name is Joevany Martinez. I answered yes to Question #7. I have Pending Charges for Possession of Child Pornography. The pending charge is from 2 years ago ... I do not believe this would affect my career as I work in Long Term Care, away from any customers[.]
4. The Board initiated an investigation and obtained the relevant criminal court documents.
5. On or about January 5, 2019, in the District Court of Anne Arundel County, Maryland, the Respondent was charged with five (5) counts of Possession of Child

Pornography (misdemeanor). The Application for Statement of Charges stated in part:

On July 12, 2018, at approximately 0900 hours, the Maryland State Police Internet Crimes Against Children assisted Homeland Security Investigations (HSI) with a search and seizure warrant at [the Respondent's address]. The search warrant was in reference to an investigation that originated with HSI where a child pornography website [Website W] was taken down and numerous leads were obtained from the website...

The website was made for purchasing child pornography...HSI investigators viewed the site and advised that the site contained almost all child pornography except for a few adult pornography videos.

Between 7-10-2016 and 2-19-2017, Jovany Martinez's Coinbase account sent three payments to the "Website W" for a total of .11 Bitcoin. Two transactions occurred on 7-10-2016 and the other transaction occurred on 2-19-2017, which totaled \$91.57. Jovany was identified by his Bitcoin wallet because his account was set up using his name, Maryland soundex, email ... and bank account information.

... [The Respondent] advised that [Investigators] would find anime child pornography on his devices and that he may have downloaded some of the videos on his Alienware computer. He said he had a folder for offline use .... He advised he used search terms like erotic, pornography, and taboo and that he purchased videos from one specific website and he would look at the "most recent" category and would look at young teens. He advised he looked for the age range of 15-16 years old.

....  
Numerous items were seized from the residence belonging to Jovany.

After the forensics were completed, [State Police Sergeant] viewed the evidence provided by [HSI Special Agent] and observed there were twenty (20) files of interest. [State Police Sergeant] viewed all twenty videos and observed 10 videos were consistent with child pornography. Of the other videos, two videos were clearly adult pornography, one video was animated (CGI), and the other videos were age difficult, meaning that the subjects in the videos may have been in the 15 to 18-year-old range, but that it was difficult to

determine. It should be noted in some of the age difficult videos, the title insinuated that the subjects in the videos were underage[.]

6. On or about March 8, 2019, the matter was forwarded to the Circuit Court of Anne Arundel County, Maryland. On May 31, 2019, the Respondent plead guilty to two (2) counts of Possession of Child Pornography in violation of CR § 11-208, a crime involving moral turpitude. The remaining three (3) counts were nolle prosequi. The Respondent was sentenced to five (5) years imprisonment for each guilty count. The court suspended the term of imprisonment and imposed three (3) years of supervised COMET<sup>1</sup> probation; court costs of \$145.00; ordered that the Respondent “have no contact with any minors by way of social media or internet, no schools, playgrounds or any other area minors may congregate;” forfeiture of all electronics seized; weekly recovery therapy; and register as a Tier I<sup>2</sup> sex offender on the Maryland Sex Offender Registry.
7. The Respondent’s recent conviction for Possession of Child Pornography, a crime involving moral turpitude, is evidence that the Respondent violated Health Occ. § 12-6B-09 (22).

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<sup>1</sup> COMET is an acronym for Collaborative Offender Management Enforcement Treatment. A probationer on COMET supervision is required to comply with a sexual offender management program, which may include intensive reporting requirements, specialized sex offender treatment, and computer monitoring, among other things.

<sup>2</sup> Tier I Sex Offender: “These registrants have been convicted in Maryland of a crime listed below or convicted in another jurisdiction of a Tier I offense. These registrants register for 15 years.

- ...

- Possession of Child Pornography - Criminal Law Article, § 11-208 or Art. 27 § 419B[.]”

8. According to a letter dated October 2, 2019, the Respondent's employer is aware of both the criminal conviction and Board-issued charges against the Respondent.
9. The letter from the Respondent's employer assured the Board that they are a closed door, institutional pharmacy whose employees, including the Respondent, do not have direct interaction with consumers.

## **II. CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provisions of the Act:

### **§ 12-6B-09. Grounds for reprimand or denial, probation, suspension, or revocation of registration.**

Subject to the hearing provision of § 12-315 of this title, the Board may . . . reprimand a registered pharmacy technician, place any pharmacy technician's registration on probation, or suspend or revoke a registered pharmacy technician's registration if the . . . pharmacy technician registrant:

- ...
- (22) Pleaded guilty or nolo contendere to, or has been found guilty of, a felony or a crime involving moral turpitude, regardless of whether:
    - (i) An adjudication of guilt or sentencing or imposition of sentence is withheld; or
    - (ii) Any appeal or other proceeding is pending regarding the matter[.]

## **III. ORDER**

Based upon the forgoing Findings of Fact and Conclusions of Law, it is this 16<sup>th</sup> day of October, 2019, by the affirmative vote of a majority of the members of the Board then serving:

**ORDERED** that the Pharmacy Technician Registration issued to the Respondent will be placed on **PROBATION** for a **MINIMUM of THREE (3) YEARS** subject to the following terms and conditions:

1. The Respondent shall comply with all terms and conditions of his criminal probation and sex offender registration. The Respondent shall arrange for the Respondent's probation officer to submit written quarterly reports to the Board evaluating the Respondent compliance. It is the Respondent's responsibility to notify his probation officer when these reports are due;
2. Notify the Board immediately within five (5) days if he reoffends or violates any probation or sex offender registration requirements;
3. The Respondent shall continue treatment with his treatment provider and shall comply with all terms and conditions set by the provider;
4. The Respondent shall arrange for the Respondent's treatment provider to submit written quarterly reports to the Board evaluating the Respondent's compliance with treatment and progress towards rehabilitation. It is the Respondent's responsibility to notify the treatment provider when these reports are due;
5. The Respondent may continue to work in his current position as a Pharmacy Technician, but shall obtain Board approval before accepting any new positions as a Pharmacy Technician (must provide details regarding contact with public)
6. The Respondent shall immediately notify all employers of the probationary status of his registration and arrange for his employer to submit, in writing, confirmation that they have reviewed this Consent Order;
7. The Respondent shall notify Board in writing of any Pharmacy position from which the Respondent is terminated by the employer or where the Respondent voluntarily resigns within three (3) days of the date of termination/resignation. The Respondent shall include the reasons for the termination or resignation in the written notification;
8. If the Respondent moves, permanently or temporarily, either within or outside of Maryland, the Respondent shall notify the Board of the new address and phone number within three (3) days of the move;

**ORDERED** that the Respondent shall practice at all times in accordance with the laws and regulations governing the practice of pharmacy technician in Maryland; and it is further

**ORDERED** that after three years from the effective date of this Consent Order have passed, the Board will consider a petition for termination of the Respondent's probationary status, provided that the Respondent has been compliant with all of the probationary terms of this Consent Order; does not have any pending complaints; and safely employed as a Pharmacy Technician for at least 9 months immediately preceding the petition for termination of probationary status; and it is further

**ORDERED** that the Respondent's execution of this Consent Order shall constitute a release of any and all medical records, including psychological/psychiatric records pertaining to the Respondent, to the Board in complying with the terms and conditions set forth herein; and it is further

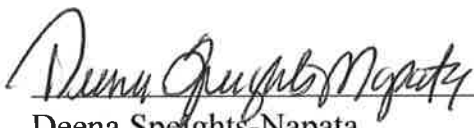
**ORDERED** that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of this Consent Order; and it is further

**ORDERED** that the Respondent's failure to fully cooperate with the Board shall be deemed a violation of this Consent Order; and it is further

**ORDERED** that, in the event that Board find in good faith that the Respondent has violated any of the terms or conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing, may impose, by further public order of the Board, any sanction(s) authorized by Health Occ. §12-6B-10 and COMAR 10.34.11.05, including reprimand, additional probation, suspension, revocation, and/or monetary penalty not exceeding \$2,500.00;

**ORDERED** that for purposes of public disclosure, this Consent Order is considered a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Provisions, §§ 4-101 *et seq.* (2014) and is reportable to any entity to whom the Board is obligated to report.

10/16/2019  
Date

  
\_\_\_\_\_  
Deena Speights-Napata  
Executive Director, for  
Kevin Morgan, Pharm.D., President  
Maryland Board of Pharmacy



**CONSENT**

I, Juevany Martinez, acknowledge that I have had the opportunity to consult with legal counsel before signing this document. By this Consent, I accept, to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its behalf and to all other substantive and procedural protections as provided by law.

I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order and understand its meaning and effect.

10-11-19  
Date

  
\_\_\_\_\_  
Juevany Martinez, T16956

**NOTARY**

STATE OF Maryland

COUNTY OF Howard

I HEREBY CERTIFY that on this 11<sup>th</sup> day of October, 2019, before me, a Notary Public of the State and County aforesaid, personally appeared **Juevany Martinez**, Registration Number: **T16956**, and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

**AS WITNESS, my hand and Notary Seal.**



Santina Maria Shetterly  
Notary Public

My Commission Expires: 8/14/22