

IN THE MATTER OF
JOEVANY MARTINEZ

Registration No: T16956
Respondent

* BEFORE THE
* MARYLAND BOARD
* OF PHARMACY
*

* * * * *

CONSENT ORDER

On August 18, 2021, the Maryland Board of Pharmacy (“the Board”) notified JOEVANY MARTINEZ, Pharmacy Technician (“the Respondent”), Registration Number T16956, under the Maryland Pharmacy Act, (the “Act”) Md. Code Ann., Health Occ. §§ 12-101 *et seq.* (2014 Repl. Vol. and 2020 Supp.). Specifically, the Board charges the Respondent with violations of the following provisions of Health Occ.:

§ 12-6B-09. Denial, suspension, or revocation of registration

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

....

(25) Violates any regulation adopted by the Board;

....

(27) Participates in any activity that is grounds for Board action under § 12-313 or § 12-409 of this title[.]

§ 12-313. Denials, reprimands, suspensions, and revocations—Grounds

....

(b) *In general* – Subject to the hearing provisions of § 12-315 of this

subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant for a pharmacist's license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the applicant or licensee:

....

(25) Violates any rule or regulation adopted by the Board[.]

The pertinent provisions of Code Md. Regs (“COMAR”), 10.34.10 provide as follows:

COMAR 10.34.01.14. Probation and Violation of Probation.

....

(D) If, at any time, the Board has reason to believe that the registrant or licensee is not in compliance with the conditions of probation, the Board shall:

(1) Charge the registrant or licensee with a violation of probation.

COMAR 10.34.10.01. Patient Safety and Welfare.

....

B. A pharmacist may not:

....

(3) Engage in unprofessional conduct.

On October 13, 2021, the Respondent and 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 originally issued a registration on or about September 9, 2015. The Respondent's registration is currently active and on probation with an expiration date of May 31, 2023.

Prior Disciplinary History

2. On or about May 28, 2019, the Respondent disclosed on his pharmacy technician registration renewal application that he had a prior criminal conviction. Further investigation revealed that 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 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 COMET¹ 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 I² sex offender on the Maryland Sex Offender Registry.

¹ COMET is an acronym 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.

² 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.

3. On September 18, 2019, the Board issued a charging document which charged the Respondent with violations under the Maryland Pharmacy Act (Case Number 20-007).

4. Effective October 16, 2019, the Respondent entered into a Consent Order with the Board to resolve the outstanding charges in lieu of a full evidentiary hearing. As part of the Consent Order, the Board concluded the Respondent violated Health Occ. § 12-6B-09(22)(i) and (ii).

5. As part of the Consent Order, the Board placed the Respondent's registration on probation for a minimum of three (3) years subject to terms and conditions.

6. During the probationary period, the Consent Order provided that the Respondent must satisfy 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;

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

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 or 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 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[.]

Violation of Consent Order

7. Since entering into the Consent Order with the Board, the Respondent has not fully complied with the terms and conditions of his Consent Order.

8. On or about October 18, 2019, Board Compliance Coordinator³ notified the Respondent that the Board “provides direct monitoring responsibilities for any licensee who has a Board Order with conditions.” The Respondent was again notified of the probationary conditions that the Respondent agreed to abide by in the Consent Order. The Respondent was also provided with forms to ensure that the Board has the Respondent’s current information including current employment information, as well as, was provided with a form to report any changes to contact information and/or employment information that the Respondent experiences during the probationary period.⁴

9. On November 20, 2019, the Board’s Compliance Coordinator emailed the Respondent to remind him of the conditions of the Consent Order.

10. The Respondent submitted an Application for Pharmacy Technician Registration – Renewal to the Board dated May 20, 2021. On this renewal application the

³ For confidentiality and privacy purposes, the names of individuals and facilities involved in this case are not disclosed in this document. Upon written request, the Administrative Prosecutor will provide the information to the Respondent.

⁴ The Respondent was provided with the mailing address, email address, and the fax number where he could submit the forms to the Board.

Respondent reported a different address than was contained in the Board's records.⁵ The Respondent, however, did not notify the Board of his new address within three days as required by the Consent Order.

11. Since execution of the Consent Order, the Respondent has failed to submit any written quarterly reports from his criminal probation officer or any written quarterly reports from his treatment provider.

12. According to a March 24, 2021, Wage Check, the Respondent has been working at the Institutional Pharmacy since April 2016.

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:

.....

(25) Violates any regulation adopted by the Board;

.....

(27) Participates in any activity that is grounds for Board action under § 12-313 or § 12-409 of this title;

⁵ In the renewal application the Respondent also reported that he was still employed at the Institutional Pharmacy.

§ 12-313. Denials, reprimands, suspensions, and revocations—Grounds

.....

- (b) *In general* – Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant for a pharmacist's license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the applicant or licensee:

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- (25) Violates any rule or regulation adopted by the Board[.]

The pertinent provisions of Code Md. Regs (“COMAR”), 10.34.10 provide as follows:

COMAR 10.34.01.14. Probation and Violation of Probation.

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- (D) If, at any time, the Board has reason to believe that the registrant or licensee is not in compliance with the conditions of probation, the Board shall:
- (1) Charge the registrant or licensee with a violation of probation.

COMAR 10.34.10.01. Patient Safety and Welfare.

.....

- B. A pharmacist may not:

.....

- (3) Engage in unprofessional conduct.

III. ORDER

Based upon the forgoing Findings of Fact and Conclusions of Law, it is this 1st day of December, 2021, 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. The first report should be submitted to the Board by January 30, 2022, the second by April 30, 2022, and every four (4) months thereafter, unless and until Mr. Martinez submits documentation indicating that his criminal probation has been terminated;
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. The first report should be submitted to the Board by January 30, 2022, the second by April 30, 2022, and every four (4) months thereafter, unless and until Mr. Martinez submits documentation indicating that his criminal probation has been terminated;
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

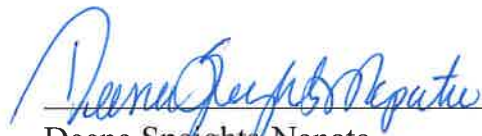
ORDERED that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of this Consent Order; and it is further

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.

12-1-21
Date


Deena Speights-Napata
Executive Director, for
Jennifer Hardesty, 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.

11-19-21
Date

JGM
Juevany Martinez, T16956

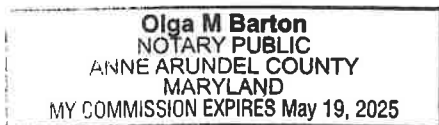
NOTARY

STATE OF Maryland

COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 19 day of November 2021, 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.



Olga M Barton
Notary Public

My Commission Expires: 05/19/2025

