

TEMPORARY SUSPENSION ORDER #C-07-003-S

RE: IN THE MATTER OF
RAMIRO MARTINEZ
(PHARMACIST LICENSE #20576)

BEFORE THE TEXAS STATE
BOARD OF PHARMACY

On this day came on to be considered by the Texas State Board of Pharmacy (hereinafter referred to as "TSBP") the matter of the Petition for Temporary Suspension of Pharmacist License regarding license number 20576, issued to Ramiro Martinez (hereinafter referred to as "Respondent"), pursuant to § 565.059 of the Texas Pharmacy Act (hereinafter referred to as "Pharmacy Act"), TEX. OCC. CODE ANN. Subtitle J.

Respondent did not appear. Julie Hildebrand represented TSBP staff. Kerstin Arnold served as General Counsel to the TSBP. The following TSBP members served as the Disciplinary Panel: W. Michael Brimberry, R.Ph., MBA; Kim A. Caldwell, R.Ph.; and Rosemary Forester Combs, appeared via teleconference.

ORDER OF THE BOARD

The TSBP Disciplinary Panel determines that Respondent, by continuation in practice, would constitute a continuing threat to the public welfare, and that pharmacist license 20576 issued to Respondent should be temporarily suspended in accordance with § 565.059 of the Pharmacy Act. The TSBP Disciplinary Panel makes this finding based on the following evidence and/or information presented at the Hearing on Temporary Suspension of License of Respondent:

1. Respondent was issued a Texas pharmacist license, number 20576, by the TSBP on September 28, 1973.
2. Respondent's license is current until December 31, 2008.
3. Respondent's Texas pharmacist license was in full force and effect at all times and dates material and relevant to this matter.

4. On December 18, 2006, the TSBP, by fax, served Respondent Notice and Petition for Temporary Suspension of Pharmacist License at his place of employment, notice of all matters asserted.
5. On or about May 6, 1987, the Texas State Board of Pharmacy entered Agreed Board Order #B-86-003-A in the matter of Ramiro Martinez. The Order was based on allegations of two counts of unauthorized substitution and label misrepresentations; and two counts of unauthorized refills and label misrepresentations. The Order imposed a \$1,000 fine and a one year probated suspension with conditions.
6. On or about November 16, 1993, the Texas State Board of Pharmacy entered Agreed Board Order #C-92-003-A in the matter of Ramiro Martinez. The Order was based on allegations of one count of dispensing an unauthorized refill; one count of dispensing an unauthorized refill and creating one new prescription; and one count for dispensing an unauthorized refill and mislabeling of the prescription container indicating that one additional refill was available. The Order imposed a two year suspension with conditions and a \$2,000 fine.
7. On or about December 13 and 14, 2006, Respondent, staff pharmacist of Guardian Angel Pharmacy, allowed the pharmacy to operate while not under the supervision of a pharmacist and allowed pharmacy technicians to perform duties that may only be performed by a pharmacist and duties that may only be performed under the supervision of a pharmacist.
8. On or about December 13 and 14, 2006, an Investigator for the TSBP observed pharmacy technicians operating Guardian Angel pharmacy, including filling and dispensing prescriptions and receiving oral prescriptions, while no pharmacist was present at the pharmacy or while not under the supervision of a pharmacist. The pharmacy was open from approximately 9:00 a.m. to 10:00 p.m. each day. Ramiro Martinez, staff pharmacist of Guardian Angel Pharmacy, worked at the pharmacy from approximately 10:00 a.m. to 3:00 p.m. each day. No pharmacist worked in the pharmacy for the remaining hours of operation.
9. The following prescriptions were filled and dispensed to patient J.H. (a TSBP investigator acting in an undercover capacity) by pharmacy technicians without a pharmacist verifying the accuracy of the prescription, in that a pharmacist was not present in the pharmacy or a pharmacist was not supervising the duties performed by the technician:

| Date | RX# | Drug | Qty. |
|----------|---------|--|------|
| 12/13/06 | 4004185 | Hydrocodone/Acetaminophen 10/500 tablets | 30 |
| 12/13/06 | 4004197 | Alprazolam 2 mg tablets | 90 |
| 12/14/06 | 4004203 | Hydrocodone/Acetaminophen 10/500 tablets | 30 |

| Date | RX# | Drug | Qty. |
|----------|---------|--|------|
| 12/14/06 | 4004212 | Hydrocodone/Acetaminophen 10/500 tablets | 30 |
| 12/14/06 | 4004213 | Hydrocodone/Acetaminophen 10/325 tablets | 30 |

10. On or about December 13 and 14, 2006, a pharmacist employed by Guardian Angel Pharmacy failed to evaluate the prescription drug orders and the patient medication record to conduct a drug regimen review in order to identify inappropriate drug utilization of the dispensed prescriptions described above. Additionally, the prescriptions described above were dispensed in quantities, dosages, or for periods of time which grossly exceeded the standards of practice, approved labeling of the Federal Food and Drug Administration, or the guidelines published in professional literature. The recommended maximum dosage for Hydrocodone with Acetaminophen is 4 g per day of Acetaminophen (the maximum dose of the Hydrocodone is limited by the total daily limit of Acetaminophen).

ORDER OF THE BOARD

THEREFORE, PREMISES CONSIDERED, the TSBP does hereby ORDER that pharmacist license number 20576 held by Respondent shall be, and such license is hereby temporarily suspended. Said suspension shall be effective immediately and shall continue in effect, pending a hearing on the suspended license, until further Order of the TSBP. During the period of suspension, Respondent shall:

- (a) surrender pharmacist license number 20576 and any renewal certificate and personal identification card pertaining to pharmacist license number 20576;
- (b) not practice pharmacy in any manner or be employed in any manner that would allow access to controlled substances.

It is finally ORDERED that failure to comply with any of the terms and conditions in this Temporary Suspension Order constitutes a violation and shall be grounds for further disciplinary action against the Texas pharmacist license held by Respondent.

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Passed and approved at the Temporary Suspension Hearing of the Texas State Board of
Pharmacy on the 19th day of December 2006.

And it is so ORDERED.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED ON THIS 19th day of December 2006.

W Michael Brimby RPh
MEMBER, TEXAS STATE BOARD OF PHARMACY

K A Adams
MEMBER, TEXAS STATE BOARD OF PHARMACY

Deborah J. Cornish
MEMBER, TEXAS STATE BOARD OF PHARMACY