

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

In the Matter of the Accusation Against:

**TRI-TECH PHARMACEUTICALS,
ELEANOR FAM MAI KONG, OWNER;**

Pharmacy Permit No. PHY 49980

Respondent

Agency Case No. 6414; OAH No. 2019120513

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on September 10, 2020.

It is so ORDERED on August 11, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg Lippe", is written over the printed name and title.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 HEATHER VO
Deputy Attorney General
4 State Bar No. 223418
300 So. Spring Street, Suite 1702
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 6414

12 **TRI-TECH PHARMACEUTICALS**
13 **ELEANOR FAM MAI KONG, OWNER**
910 Broadway Avenue No. 105
Santa Monica, CA 90401

OAH No. 2019120513

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 Permit No. PHY 49980

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
21 (Board). She brought this action solely in her official capacity and is represented in this matter by
22 Xavier Becerra, Attorney General of the State of California, by Heather Vo, Deputy Attorney
23 General.

24 2. Tri-Tech Pharmaceuticals; Eleanor Fam Mai Kong as Owner (Respondent) is
25 represented in this proceeding by attorney Adam B. Brown, Esq., whose address is: 3848 W.
26 Carson Street, Suite 206, Torrance, CA 90503.

27 ///

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1 Tri-Tech Pharmaceuticals

2 3. On or about June 8, 2009, the Board of Pharmacy issued Pharmacy Permit Number
3 PHY 49980 to Respondent. Eleanor Fam Mai Kong (“Eleanor Kong”) is the owner since June 8,
4 2009. Moreover, Eleanor Kong was the Pharmacist-in-Charge at Tri-Tech Pharmaceuticals since
5 June 8, 2009. The Pharmacy Permit was in force and effect at all times relevant to the charges
6 brought herein and will expire on June 1, 2021, unless renewed.

7 Eleanor Fam Mai Kong

8 4. On or about January 5, 1982, the Board of Pharmacy issued Pharmacist License
9 Number RPH 36810 to Eleanor Fam Mai Kong. The Pharmacist License was revoked in a prior
10 case, “*In the Matter of the Accusation Against Infotel Medical Group, dba Station Pharmacy*”;
11 Case No. 6233. The Decision was effective on July 2, 2019.

12 **JURISDICTION**

13 5. Accusation No. 6414 was filed before the Board, and is currently pending against
14 Respondent. The Accusation and all other statutorily required documents were properly served
15 on Respondent on September 13, 2019. Respondent timely filed its Notice of Defense contesting
16 the Accusation. A copy of Accusation No. 6414 is attached as Exhibit A and incorporated by
17 reference.

18 **ADVISEMENT AND WAIVERS**

19 6. Respondent has carefully read, fully discussed with counsel, and understands the
20 charges and allegations in Accusation Case No. 6414. Respondent also has carefully read, fully
21 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
22 Order.

23 7. Respondent is fully aware of its legal rights in this matter, including the right to a
24 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
25 the witnesses against it; the right to present evidence and to testify on its own behalf; the right to
26 the issuance of subpoenas to compel the attendance of witnesses and the production of
27 documents; the right to reconsideration and court review of an adverse decision; and all other
28 rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation Case No. 6414, agrees that cause exists for discipline and hereby surrenders the Pharmacy Permit No. PHY 49980 for the Board's formal acceptance.

10. Respondent understands that by signing this stipulation Respondent enables the Board to issue an order accepting the surrender of the Pharmacy Permit No. PHY 49980 without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 49980, issued to Respondent is surrendered and accepted by the Board.

1. The surrender of Respondent's Pharmacy Permit and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a pharmacy in California as of the effective date of the Board's Decision and Order.

3. Respondent shall, within ten (10) days of the effective date, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed and approved by the board of all controlled substances and dangerous drugs and/or dangerous devices. Respondent shall further arrange for the transfer of all records of acquisition and disposition of dangerous drugs to premises licensed and approved by the board. Respondent shall further provide written proof of such disposition and submit a completed Discontinuance of Business form according to board guidelines.

4. Respondent shall cause to be delivered to the Board its pocket license and, if one was issued, its wall certificate on or before the effective date of the Decision and Order.

5. If Respondent ever applies for licensure or petition for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation Case No. 6414 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$32,345.00 prior to issuance of a new or reinstated license.

7. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation Case No. 6414 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Adam B. Brown, Esq. I understand the stipulation and the effect it will have on my Pharmacy Permit No. PHY 49980. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

**TRI-TECH PHARMACEUTICALS,
ELEANOR FAM MAI KONG, Owner
Permit No. PHY 49980
Respondent**

I have read and fully discussed with Respondent Tri-Tech Pharmaceuticals; Eleanor Fama as Owner, the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED:

ADAM B. BROWN, Esq.
Attorney for Respondent

1 7. If Respondent should ever apply or reapply for a new license or certification, or
2 petition for reinstatement of a license, by any other health care licensing agency in the State of
3 California, all of the charges and allegations contained in Accusation Case No. 6414 shall be
4 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
5 Issues or any other proceeding seeking to deny or restrict licensure.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Surrender of License and Order and have fully
8 discussed it with my attorney, Adam B. Brown, Esq. I understand the stipulation and the effect it
9 will have on my Pharmacy Permit No. PHY 49980. I enter into this Stipulated Surrender of
10 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
11 Decision and Order of the Board of Pharmacy.

12
13 DATED:

July 3, 2020

Eleanor Fam Mai Kong
TRI-TECH PHARMACEUTICALS,
ELEANOR FAM MAI KONG, Owner
Permit No. PHY 49980
Respondent

17 I have read and fully discussed with Respondent Tri-Tech Pharmaceuticals; Eleanor Fam
18 Mai Kong as Owner, the terms and conditions and other matters contained in this Stipulated
19 Surrender of License and Order. I approve its form and content.

20
21 DATED:

7-6-20

Adam B. Brown
ADAM B. BROWN, Esq.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: July 8, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General



HEATHER VO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6414

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 HEATHER VO
Deputy Attorney General
4 State Bar No. 223418
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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. 6414

13 **TRI-TECH PHARMACEUTICALS**
14 **ELEANOR FAM MAI KONG, OWNER**
910 Broadway Avenue No. 105
Santa Monica, CA 90401

A C C U S A T I O N

15 Permit No. PHY 49980

16 Respondent.
17

18
19 Complainant alleges:

20 **PARTIES**

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

23 **Tri-Tech Pharmaceuticals**

24 2. On or about June 8, 2009, the Board of Pharmacy issued Permit Number PHY 49980
25 to Tri-Tech Pharmaceuticals (Respondent Tri-Tech Pharmaceuticals). Eleanor Fam Mai Kong
26 ("Eleanor Kong") is the owner since June 8, 2009. Moreover, Eleanor Kong was the Pharmacist-
27 in-Charge at Tri-Tech Pharmaceuticals since June 8, 2009. The Pharmacy Permit was in force
28

1 and effect at all times relevant to the charges brought herein and will expire on June 1, 2020,
2 unless renewed.

3 Eleanor Fam Mai Kong

4 3. On or about January 5, 1982, the Board of Pharmacy issued Pharmacist License
5 Number RPH 36810 to Eleanor Fam Mai Kong. The Pharmacist License was revoked in a prior
6 case, "*In the Matter of the Accusation Against Infortel Medical Group, dba Station Pharmacy*";
7 Case No. 6233. The Decision was effective on July 2, 2019.

8 **JURISDICTION**

9 4. This Accusation is brought before the Board of Pharmacy (Board), Department of
10 Consumer Affairs, under the authority of the following laws. All section references are to the
11 Business and Professions Code unless otherwise indicated.

12 5. Section 4011 of the Code provides that the Board shall administer and enforce both
13 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
14 Act [Health and Safety Code, § 11000 et seq.].

15 6. Section 4300(a) of the Code provides that every license issued by the Board may be
16 suspended or revoked.

17 **STATUTORY PROVISIONS**

18 7. Section 4022 of the Code states:

19 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self use in
20 humans or animals, and includes the following:

21 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
22 prescription," "Rx only," or words of similar import.

23 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by
24 or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in
25 with the designation of the practitioner licensed to use or order use of the device.

26 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
27 prescription or furnished pursuant to Section 4006."

28 ///

1 8. Section 4105 of the Code states:

2 “(a) All records or other documentation of the acquisition and disposition of dangerous
3 drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed
4 premises in a readily retrievable form.

5 (b) The licensee may remove the original records or documentation from the licensed
6 premises on a temporary basis for license-related purposes. However, a duplicate set of those
7 records or other documentation shall be retained on the licensed premises.

8 (c) The records required by this section shall be retained on the licensed premises for a
9 period of three years from the date of making.

10

11 (e) (1) Notwithstanding subdivisions (a), (b), and (c), the board may, upon written request,
12 grant to a licensee a waiver of the requirements that the records described in subdivisions (a), (b),
13 and (c) be kept on the licensed premises.”

14 9. Section 4116 of the Code states:

15 (a) No person other than a pharmacist, an intern pharmacist, an authorized officer of the
16 law, or a person authorized to prescribe shall be permitted in that area, place, or premises
17 described in the license issued by the board wherein controlled substances or dangerous drugs or
18 dangerous devices are stored, possessed, prepared, manufactured, derived, compounded,
19 dispensed, or repackaged. However, a pharmacist shall be responsible for any individual who
20 enters the pharmacy for the purposes of receiving consultation from the pharmacist or performing
21 clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to
22 the pharmacy if the pharmacist remains present in the pharmacy during all times as the authorized
23 individual is present.

24 (b) (1) The board may, by regulation, establish reasonable security measures consistent with
25 this section in order to prevent unauthorized persons from gaining access to the area, place, or
26 premises or to the controlled substances or dangerous drugs or dangerous devices therein.

27

28 ///

1 10. Section 4300.1 of the Code states: “The expiration, cancellation, forfeiture, or
2 suspension of a board-issued license by operation of law or by order or decision of the board or a
3 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
4 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
5 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
6 suspending or revoking the license.”

7 11. Section 4301 of the Code states in relevant part:

8 "The board shall take action against any holder of a license who is guilty of unprofessional
9 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
10 Unprofessional conduct shall include, but is not limited to, any of the following:

11

12 (j) The violation of any of the statutes of this state, or any other state, or of the United
13 States regulating controlled substances and dangerous drugs.

14

15 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable
17 federal and state laws and regulations governing pharmacy, including regulations established by
18 the board or by any other state or federal regulatory agency.”

19

20 (q) Engaging in any conduct that subverts or attempts to subvert an investigation of the
21 board.”

22

23 12. Section 4306.5 of the Code states in relevant part:

24 “Unprofessional conduct for a pharmacist may include any of the following:

25 (a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or
26 her education, training, or experience as a pharmacist, whether or not the act or omission arises in
27 the course of the practice of pharmacy or the ownership, management, administration, or
28 operation of a pharmacy or other entity licensed by the board.”

....

13. Section 4307 of the Code states in relevant part:

“(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.”

....

14. Section 4333 of the Code states:

“(a) All prescriptions filled by a pharmacy and all other records required by Section 4081 shall be maintained on the premises and available for inspection by authorized officers of the law for a period of at least three years. In cases where the pharmacy discontinues business, these records shall be maintained in a board-licensed facility for at least three years.

(b) Any person who willfully fails to comply with subdivision (a) is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding two hundred dollars (\$200). Any person convicted of a second or subsequent offense shall be punished by a fine of not less than two hundred dollars (\$200) and not more than four hundred dollars (\$400).

1 (c) (1) Notwithstanding subdivisions (a) and (b), the board may, upon written request, grant
2 a waiver of the requirement that the records described in subdivisions (a) and (b) be maintained
3 on the licensed premises or, in the event the pharmacy discontinues business, that the records be
4 maintained in a board licensed facility. A person who maintains records in compliance with that
5 waiver is not subject to the penalties set forth in subdivision (b).

6 (2) A waiver granted pursuant to this subdivision shall not affect the board's authority
7 under this section or any other provision of this chapter."

8 **REGULATORY PROVISIONS**

9 15. California Code of Regulations, title 16, section 1707, states waiver requirements for
10 off-site storage of records:

11 "(a) Pursuant to subdivision (e) of Section 4105 of the Business and Professions Code and
12 subdivision (c) of Section 4333 of the Business and Professions Code, a waiver shall be granted
13 to any entity licensed by the board for off-site storage of the records described in subdivisions (a),
14 (b) and (c) of Section 4105 of the Business and Professions Code unless the applicant has, within
15 the preceding five years, failed to produce records pursuant to Section 4081 of the Business and
16 Professions Code or has falsified records covered by Section 4081 of the Business and
17 Professions Code."

18

19 16. California Code of Regulations, title 16, section 1714, states in relevant part:

20

21 "(d) Each pharmacist while on duty shall be responsible for the security of the prescription
22 department, including provisions for effective control against theft or diversion of dangerous
23 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy
24 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist."

25 (e) The pharmacy owner, the building owner or manager, or a family member of a
26 pharmacist owner (but not more than one of the aforementioned) may possess a key to the
27 pharmacy that is maintained in a tamper evident container for the purpose of 1) delivering the key
28 to a pharmacist or 2) providing access in case of emergency. An emergency would include fire,

1 flood or earthquake. The signature of the pharmacist-in-charge shall be present in such a way that
2 the pharmacist may readily determine whether the key has been removed from the container.”

3

4 17. California Code of Regulations, title 16, section 1714.1, states in relevant part:

5 “(a) In any pharmacy that is staffed by a single pharmacist, the pharmacist may leave the
6 pharmacy temporarily for breaks and meal periods pursuant to Section 512 of the Labor Code and
7 the orders of the Industrial Welfare Commission without closing the pharmacy and removing
8 ancillary staff from the pharmacy if the pharmacist reasonably believes that the security of the
9 dangerous drugs and devices will be maintained in his or her absence.

10 If in the professional judgment of the pharmacist, the pharmacist determines that the
11 pharmacy should close during his or her absence, then the pharmacist shall close the pharmacy
12 and remove all ancillary staff from the pharmacy during his or her absence.

13

14 (e) The temporary absence authorized by this section shall be limited to the minimum
15 period authorized for pharmacists by section 512 of Labor Code or orders of the Industrial
16 Welfare Commission, and any meal shall be limited to 30 minutes. The pharmacist who is on
17 break shall not be required to remain in the pharmacy area during the break period.”

18 **DRUG CLASSIFICATIONS**

19 18. Diazepam 10mg (brand name, Valium 10mg) is used for anxiety and is categorized as
20 a dangerous drug pursuant to Business and Professions Code section 4022. It is a controlled
21 substance per Health and Safety Code 11057.

22 19. Testosterone topical (brand name, Androderm) is used for testosterone deficiency and
23 is categorized as a dangerous drug pursuant to Business and Professions Code section 4022. It is
24 also a controlled substance per Health and Safety Code section 11056.

25 20. Diclofenac topical (brand name, Voltaren Gel) is used for osteoarthritis and is
26 categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

27 ///

28 ///

COST RECOVERY

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

INVESTIGATION #1 – February 23, 2017

22. On or about February 23, 2017, Board Inspector M.K. conducted an inspection at Tri-Tech Pharmaceuticals. Eleanor Kong was present and assisted in the inspection. During this time, the Board had a pending investigation against Station Pharmacy, where Eleanor Kong was the pharmacist-in-charge. Board Inspector M.K. requested to see records of Station Pharmacy and was told by Eleanor Kong that the records of Station Pharmacy were stored in an off-site location. Board Inspector M.K. found that records for Station Pharmacy were stored in two separate storage rooms in a building adjacent to Tri-Tech Pharmaceuticals. A waiver for an off-site storage of records of acquisition and disposition of dangerous drugs was not approved by the Board, which is a violation of pharmacy law.

23. During the inspection, Board Inspector M.K. requested Doctor Dispensing Reports for all prescriptions dispensed under Dr. Emil Soorani from Tri-Tech Pharmaceuticals from January 1, 2014 through February 23, 2017. An analysis of the compounded prescriptions dispensed by Tri-Tech Pharmaceuticals found that a prescription (Rx10638 N) dated November 9, 2016 for testosterone 200mg/gm cream was an orally transmitted compounded prescription that did not have the initials of the pharmacist who received the prescription. The lack of initials of the transcribing pharmacist on the face of the prescription is a violation of pharmacy law.

24. An analysis of the prescriptions dispensed by Tri-Tech Pharmaceuticals also found that controlled substance prescriptions for Valium 10mg (Rx10853 N) dated December 16, 2016, testosterone 10% cream (Rx11092 N) dated October 11, 2016, and testosterone 2% cream

///

(Rx10762 N) dated November 14, 2016, were written on non-secured controlled substance prescription forms, which is a violation of pharmacy law.

FIRST CAUSE FOR DISCIPLINE

(Failure to Identify Orally Transmitted Prescription)

25. Respondent TRI-TECH PHARMACEUTICALS is subject to disciplinary action under Code section 4301(j) and (o), for violating California Code of Regulations, title 16, section 1717(c), in that an orally transmitted prescription (Rx#10638) dated November 9, 2016 for testosterone 200mg/gram did not have the initials of the transcribing pharmacist on the face of the prescription. Complainant refers to and by this reference incorporates allegations of paragraphs 22 through 24 above as though fully set forth.

SECOND CAUSE FOR DISCIPLINE

(Dispensing Controlled Substance(s) Without Compliant Prescription(s))

26. Respondent TRI-TECH PHARMACEUTICALS is subject to disciplinary action under Code section 4301(j) and (o), for violating Health and Safety Code sections 11164 and/or 11162.1, in that Tri-Tech Pharmaceuticals had the following controlled substance prescriptions which did not meet the specifications required by Health and Safety Code section 11162.1: Valium 10mg (Rx10853 N) dated December 16, 2016; testosterone 10% cream (Rx11092 N) dated October 11, 2016; and testosterone cream 2% (Rx10762) dated November 14, 2016. The controlled prescriptions were written on non-secured controlled substance prescription forms. Complainant refers to and by this reference incorporates allegations of paragraphs 22 through 24 above as though fully set forth.

THIRD CAUSE FOR DISCIPLINE

(Failed to Get Approval for Off-Site Storage of Records)

27. Respondent TRI-TECH PHARMACEUTICALS is subject to disciplinary action under Code sections 4301(j) and (o); 4105(a), (b), (c), and (e); and 4333(c); for violating California Code of Regulations, title 16, section 1707(a), in that an inspection on or about February 23, 2017 found that Tri-Tech Pharmaceuticals had taken the records of acquisition and disposition of dangerous drugs received from Station Pharmacy and placed them in an off-site

1 storage area(s) without having an approved off-site waiver from the Board. Complainant refers to
2 and by this reference incorporates allegations of paragraphs 22 through 24 above as though fully
3 set forth.

4 **INVESTIGATION #2 – OCTOBER 10, 2017 AND DECEMBER 18, 2017**

5 28. On October 10, 2017, Board Inspector P.W. conducted an inspection at Tri-Tech
6 Pharmaceuticals. The pharmacy was open at the time of the inspection. Pharmacy technicians
7 De La Torre and Alvarez assisted in the inspection. Board Inspector P.W. arrived at the
8 pharmacy and recorded the time as 1:09 p.m. A pharmacist was not present. Inside the
9 pharmacy, Board Inspector P.W. observed that a non pharmacist staff member was sitting inside
10 the pharmacy prescription area. Board Inspector P.W. completed the inspection and recorded the
11 time as 2:19 p.m. The inspection took over an hour and no pharmacist was present for the
12 duration of his inspection.

13 29. On December 18, 2017, Board Inspector P.W. performed another inspection at Tri-
14 Tech Pharmaceuticals. The pharmacy was open at the time of the inspection. Board Inspector
15 P.W. arrived at the pharmacy at 12:23 p.m. and recorded the time. Pharmacy technician De La
16 Torre assisted in the inspection. Again, no pharmacist was present. Pharmacy technician De La
17 Torre had in her possession a key to the front door of the pharmacy. In the pharmacy, Board
18 Inspector P.W. observed that expired drugs, will call prescription drugs, and patient medical
19 records were accessible to non-pharmacist staff while a pharmacist was not present. The Board
20 Inspector completed the inspection and recorded the time as 1:09 p.m. The inspection took
21 approximately 45 minutes and no pharmacist was present for the duration of his inspection.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Failure to Secure Pharmacy: Unauthorized Employee Provided with Pharmacy Key)**

24 30. Respondent TRI-TECH PHARMACEUTICALS is subject to disciplinary action
25 under Code sections 4301(j) and (o); and 4116(b)(1), for violating California Code of
26 Regulations, title 16, section 1714(d) and (e), (which limit individuals who may legally possess a
27 key to a pharmacy) in that during the Board inspection on December 18, 2017, the Board
28 Inspector observed that pharmacy technician De La Torre had a key to the pharmacy.

1 Complainant refers to and by this reference incorporates allegations of paragraphs 28 through 29
2 above as though fully set forth.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Pharmacy Operating During Absence of Pharmacist)**

5 31. Respondent TRI-TECH PHARMACEUTICALS is subject to disciplinary action
6 under Code sections 4301(j) and (o), for violating California Code of Regulations, title 16, section
7 1714.1(e), in that during inspections on October 10, 2017 and December 18, 2017, Tri-Tech
8 Pharmaceuticals was operating without a pharmacist on duty for over 30 minutes. Complainant
9 refers to and by this reference incorporates allegations of paragraphs 28 through 29 above as
10 though fully set forth.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct)**

13 32. Respondent TRI-TECH PHARMACEUTICALS is subject to disciplinary action
14 under Code sections 4301(j) and (o); and 4306.5(a) for unprofessional conduct, in that during
15 inspections on October 10, 2017 and December 18, 2017, Tri-Tech Pharmaceuticals allowed the
16 pharmacy to operate without a pharmacist on duty for over 30 minutes. Complainant refers to
17 and by this reference incorporates allegations of paragraphs 28 through 29 above as though fully
18 set forth.

19 **OTHER MATTERS**

20 33. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit
21 Number PHY 49980 issued to Tri-Tech Pharmaceuticals, Tri-Tech Pharmaceuticals shall be
22 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
23 or partner of a licensee for five years if Pharmacy Permit Number PHY 49980 is placed on
24 probation or until Pharmacy Permit Number PHY 49980 is reinstated if it is revoked.

25 34. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit
26 Number PHY 49980 issued to Tri-Tech Pharmaceuticals while Eleanor Fam Mai Kong has been
27 an officer and owner and had knowledge of or knowingly participated in any conduct for which
28 the licensee was disciplined, Eleanor Fam Mai Kong shall be prohibited from serving as a

1 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
2 five years if Pharmacy Permit Number PHY 49980 is placed on probation or until Pharmacy
3 Permit Number PHY 49980 is reinstated if it is revoked.

4 **PRAYER**

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

7 1. Revoking or suspending Pharmacy Permit Number PHY 49980, issued to Tri-Tech
8 Pharmaceuticals;

9 2. Prohibiting Tri-Tech Pharmaceuticals from serving as a manager, administrator,
10 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
11 Permit Number PHY 49980 is placed on probation or until Pharmacy Permit Number PHY
12 49980 is reinstated if Pharmacy Permit Number 49980 issued to Tri-Tech Pharmaceuticals is
13 revoked;

14 3. Prohibiting Eleanor Fam Mai Kong from serving as a manager, administrator,
15 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
16 Permit Number PHY 49980 is placed on probation or until Pharmacy Permit Number PHY
17 49980 is reinstated if Pharmacy Permit Number 49980 issued to Tri-Tech Pharmaceuticals is
18 revoked;

19 4. Ordering Tri-Tech Pharmaceuticals to pay the reasonable costs of the investigation
20 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

21 5. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: August 28, 2019



25 ANNE SODERGREN
26 Interim Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

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