

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

In the Matter of the Accusation Against:

MARIA ALELI R. TOLENTINO

5262 E. Mariposa Road
Stockton, CA 95215

Pharmacy Technician Registration No.
TCH 21670

Respondent.

Case No. 6687

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 February 12, 2020.

It is so ORDERED on January 13, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
Board President

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Attorney General of California
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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 6687

13 **MARIA ALELI R. TOLENTINO**
14 **5262 E. Mariposa Road**
Stockton, CA 95215

OAH No. 2019090540

15 **Pharmacy Technician License No. TCH**
16 **21670**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17
18 Respondent.

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

20 **PARTIES**

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

25 2. Maria Aleli R. Tolentino (Respondent) is representing herself in this proceeding and
26 has chosen not to exercise her right to be represented by counsel.

27 3. On or about March 10, 1997, the Board issued Pharmacy Technician License No.
28 TCH 21670 to Maria Aleli R. Tolentino (Respondent). The Pharmacy Technician License was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 6687 and will
2 expire on October 31, 2020, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 6687 was filed before the Board, and is currently pending against
5 Respondent. The Accusation and all other statutorily required documents were properly served
6 on Respondent on June 12, 2019. Respondent timely filed her Notice of Defense contesting the
7 Accusation. A copy of Accusation No. 6687 is attached as Exhibit A and incorporated by
8 reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 6687. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
15 her own expense; the right to confront and cross-examine the witnesses against her; the right to
16 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
17 compel the attendance of witnesses and the production of documents; the right to reconsideration
18 and court review of an adverse decision; and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws.

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

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 6687, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
25 License No. TCH 21670 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation she enables the Board to issue
27 an order accepting the surrender of her Pharmacy Technician License without further process.

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CONTINGENCY

10. 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. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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.

11. 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.

12. 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.

13. 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 Technician License No. TCH 21670, issued to Respondent Maria Aleli R. Tolentino, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent's Pharmacy Technician License 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 technician in California as of the effective date of the Board's Decision and Order.

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

4. Respondent understands and agrees that if she ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new application.

5. Respondent may not apply for any license, permit, or registration from the Board for three years from the effective date of this decision. Respondent stipulates that should she apply for any license from the Board on or after the effective dates of this decision, all allegations set forth in Accusation No. 6687 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date is submitted to the Board prior to the issuance of a new license Respondent is required to report this surrender as disciplinary action.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$3,935.00 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, No. 6687 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.

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1 ACCEPTANCE

2 I have carefully read the Stipulated Surrender of License and Order. I understand the
3 stipulation and the effect it will have on my Pharmacy Technician License. I enter into this
4 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
5 be bound by the Decision and Order of the Board of Pharmacy.

6
7 DATED: 12.5.19

Maria Tolentino
8 MARIA ALELI R. TOLENTINO
9 Respondent

10
11 ENDORSEMENT

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

14 DATED: 12/9/19

Respectfully submitted,

15 XAVIER BECERRA
16 Attorney General of California
17 JANICE K. LACHMAN
18 Supervising Deputy Attorney General

Karen R. Denvir
19 KAREN R. DENVER
20 Deputy Attorney General
21 Attorneys for Complainant

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Exhibit A

Accusation No. 6687

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14 **MARIA ALELI R. TOLENTINO**
15 **5262 E. Mariposa Road**
Stockton, CA 95215

ACCUSATION

16 **Pharmacy Technician License No. TCH 21670**

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about March 10, 1997, the Board issued Pharmacy Technician License
24 Number TCH 21670 to Maria Aleli R. Tolentino ("Respondent"). The license was in full force
25 and effect at all times relevant to the charges brought herein and will expire on October 31, 2020,
26 unless renewed.

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JURISDICTION

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

4. Code section 4300 states:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper. . . .

5. Code section 4300.1 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.

6. Code section 4301 states, in pertinent part:

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

....

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

....

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may

1 inquire into the circumstances surrounding the commission of the crime, in order to
2 fix the degree of discipline or, in the case of a conviction not involving controlled
3 substances or dangerous drugs, to determine if the conviction is of an offense
4 substantially related to the qualifications, functions, and duties of a licensee under this
5 chapter. A plea or verdict of guilty or a conviction following a plea of *nolo*
6 *contendere* is deemed to be a conviction within the meaning of this provision. The
7 board may take action when the time for appeal has elapsed, or the judgment of
8 conviction has been affirmed on appeal or when an order granting probation is made
9 suspending the imposition of sentence, irrespective of a subsequent order under
10 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
11 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
12 dismissing the accusation, information, or indictment.

7 **REGULATORY PROVISIONS**

8 7. California Code of Regulations, title 16, section 1770, states:

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

13 **COST RECOVERY**

14 8. Code section 125.3 states, in pertinent part, that the Board may request the
15 administrative law judge to direct a licensee 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 **FIRST CAUSE FOR DISCIPLINE**

19 **(Criminal Conviction)**

20 9. Respondent is subject to disciplinary action under Code section 4301, subdivision (l),
21 in that Respondent was convicted of a crime substantially related to the qualifications, functions,
22 and duties of a pharmacy technician, as follows: on or about December 12, 2018, in the criminal
23 proceeding entitled, *People v. Maria Tolentino* (San Joaquin County Super. Ct., Case No. CR-
24 2018-12253), Respondent was convicted by the Court on her plea of *nolo contendere* of violating
25 Penal Code section 597, subdivision (b) (causing animals to fight) and Penal Code section 597,
26 subdivision (j) (possession of game cock for fighting), both misdemeanors. The imposition of
27 Respondent's sentence was suspended and conditional probation granted for a period of three (3)
28 years with terms and conditions. The circumstances of the crimes are set forth below:

10. On or about December 2, 2017, San Joaquin County Sheriff's Department deputies responded to a report of cockfighting and were advised by dispatch that thirty five (35) to forty (40) vehicles were on scene. Upon arrival, the deputies spoke with the homeowner, Respondent, who advised that she was hosting a "party" in order for the roosters to fight. Approximately 600 roosters were located on the property. Several subjects were detained while attempting to flee the property. All of the subjects were extremely uncooperative, except for one who admitted to the deputies that he brought \$200 with him to gamble on cockfighting, and that he had been to Respondent's residence in the past to gamble on cockfighting.

11. On or about August 4, 2018, San Joaquin County Sheriff deputies again responded to Respondent's residence to a report of cockfighting. Multiple subjects attempted to flee the area and were detained by law enforcement. Five of the subjects admitted they were on the property to watch cockfighting, and some stated that they had been there on prior occasions to watch cockfighting. The deputies observed a fighting ring surrounded by benches, a snack bar set up to sell food and drinks, and several roosters in wooden crates and chained to blue drums on the property in different areas. The deputies also observed two dead roosters that appeared to have wounds from fighting. Over 200 roosters were found in different locations on Respondent's property.

12. On or about August 31, 2018, San Joaquin County Sheriff deputies executed a search warrant at Respondent's residence. Deputies observed several roosters on the property that had obvious signs of being used for fighting: cropped wattles, natural talons shaved off, and missing feathers on their neck and chest areas. Approximately 612 birds were counted on Respondent's property on that date.

SECOND CAUSE FOR DISCIPLINE

(Acts of Moral Turpitude)

13. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as more particularly set forth above in paragraph 9-12.

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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 Pharmacy Technician License Number TCH 21670, issued to Maria Aleli R. Tolentino;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: June 7, 2019



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

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