

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

**In the Matter of the Accusation Against:**

**CHOICECARE PHARMACY,  
JOHN MONTELIBANO TALENS, OWNER,  
Original Permit No. PHY 57291; and**

**PETER W. CHIU,  
Registered Pharmacist License No. RPH 30425; and**

**CAROL ANN T. MALINIS,  
Registered Pharmacist License No. RPH 43114,**

**Respondents.**

**Agency Case No. 7048**

**OAH No. 2021100753**

## 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 August 4, 2022.

It is so ORDERED on July 5, 2022.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" clearly visible.

Seung W. Oh, Pharm.D.  
Board President

1 ROB BONTA  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 ASPASIA A. PAPAVALASSILOU  
Deputy Attorney General  
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*Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 7048

OAH No. 2021100753

14 **CHOICECARE PHARMACY;**  
15 **JOHN MOTELIBANO TALENS, OWNER**  
90 S. Spruce Avenue, Suite W  
South San Francisco, CA 94080

**STIPULATED SURRENDER OF  
LICENSE AND ORDER REGARDING  
RESPONDENT CAROL ANN T.  
MALINIS**

16 **Original Permit No. PHY 57291,**

17 **PETER W. CHIU**  
18 **3711 San Bruno Avenue**  
**San Francisco, CA 94134**

19 **Registered Pharmacist License No. RPH**  
20 **30425**

21 **and**

22 **CAROL ANN T. MALINIS**  
23 **2398 Riverside Court**  
**San Leandro, CA 94579**

24 **Registered Pharmacist License No. RPH**  
25 **43114,**

26 Respondents.

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

3 **PARTIES**

4 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy  
5 (Board). She brought this action solely in her official capacity and is represented in this matter by  
6 Rob Bonta, Attorney General of the State of California, by Aspasia A. Papavassiliou, Deputy  
7 Attorney General.

8 1. Respondent Carol Ann T. Malinis (Respondent) is represented in this proceeding by  
9 attorney Rob D. Cucher, whose address is: 9454 Wilshire Boulevard, Suite 600, Beverly Hills,  
10 CA 90212-2980.

11 2. On or about March 6, 1990, the Board of Pharmacy issued Registered Pharmacist  
12 License Number RPH 43114 to Respondent. The Registered Pharmacist License expired on July  
13 31, 2021, and has not been renewed.

14 **JURISDICTION**

15 2. Accusation No. 7048 was filed before the Board, and is currently pending against  
16 Respondent. The Accusation and all other statutorily required documents were properly served  
17 on Respondent on September 20, 2021. Respondent timely filed her Notice of Defense contesting  
18 the Accusation. A copy of Accusation No. 7048 is attached as Exhibit A and incorporated by  
19 reference.

20 **ADVISEMENT AND WAIVERS**

21 3. Respondent has carefully read, fully discussed with counsel, and understands the  
22 charges and allegations in Accusation No. 7048. Respondent also has carefully read, fully  
23 discussed with counsel, and understands the effects of this Stipulated Surrender of License and  
24 Order.

25 4. Respondent is fully aware of her legal rights in this matter, including the right to a  
26 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
27 the witnesses against her; the right to present evidence and to testify on her own behalf; the right  
28 to the issuance of subpoenas to compel the attendance of witnesses and the production of

documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

### **CULPABILITY**

6. Respondent understands that the charges and allegations in Accusation No. 7048, if proven at a hearing, constitute cause for imposing discipline upon her registered pharmacist license.

7. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up their right to contest that cause for discipline exists based on those charges.

8. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her registered pharmacist license without further process.

9. In addition, the charges and allegations in the Accusation regarding Respondent shall be deemed true and correct in any future disciplinary proceeding before the Board against Respondent.

### **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 or its counsel. 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 Registered Pharmacist License No. RPH 43114, issued to Respondent Carol Ann T. Malinis (Respondent), is surrendered and accepted by the Board.

1. The surrender of Respondent's registered pharmacist 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 registered pharmacist 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. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as an application for a new license. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 7048 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent understands and agrees that for purposes of Business and Professions Code section 4307, this surrender shall be construed the same as revocation.

6. Respondent may not petition for any license, permit, or registration from the board for three years from the effective date of the Board's Decision and Order.

7. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$10,000.00 prior to issuance of a new or reinstated license.

8. 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. 7048 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, Rob D. Cucher. I understand the stipulation and the effect it will have on my registered pharmacist license. 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:

CAROL ANN T. MALINIS  
*Respondent*

I have read and fully discussed with Respondent Carol Ann T. Malinis the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED:

ROB D. CUCHER  
*Attorney for Respondent*





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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: May 4, 2022 \_\_\_\_\_

Respectfully submitted,

ROB BONTA  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General



ASPASIA A. PAPA VASSILIOU  
Deputy Attorney General  
*Attorneys for Complainant*

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**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: \_\_\_\_\_

Respectfully submitted,

ROB BONTA  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General

ASPASIA A. PAPAVALASSILOU  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 7048**

1 ROB BONTA  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 ASPASIA A. PAPAVALASSIOU  
Deputy Attorney General  
4 State Bar No. 196360  
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5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 879-0818  
Facsimile: (510) 622-2270  
7 E-mail: Aspasia.Papavassiliou@doj.ca.gov  
*Attorneys for Complainant*

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

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15 **JOHN MOTELIBANO TALENS, OWNER**  
16 **90 S. Spruce Avenue, Suite W**  
17 **South San Francisco, CA 94080**

**ACCUSATION**

18 **Original Permit No. PHY 57291,**

19 **PETER W. CHIU**  
20 **3711 San Bruno Avenue**  
21 **San Francisco, CA 94134**

22 **Registered Pharmacist License No. RPH**  
23 **30425**

24 **and**

25 **CAROL ANN T. MALINIS**  
26 **2398 Riverside Court**  
27 **San Leandro, CA 94579**

28 **Registered Pharmacist License No. RPH**  
**43114,**

Respondents.

1 **PARTIES**

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

4 2. On or about April 30, 2019, the Board of Pharmacy issued Original Permit Number  
5 PHY 57291 to ChoiceCare Pharmacy, with John Motelibano Talens as Owner (Respondent  
6 ChoiceCare Pharmacy). The Original Permit will expire on April 1, 2022, unless renewed.

7 3. On or about August 5, 1976, the Board of Pharmacy issued Registered Pharmacist  
8 License Number RPH 30425 to Peter W. Chiu (Respondent Peter W. Chiu). The Registered  
9 Pharmacist License will expire on June 30, 2022, unless renewed.

10 4. Respondent Peter W. Chiu has been the Pharmacist-in-Charge (PIC) of Respondent  
11 ChoiceCare Pharmacy since on or about May 1, 2020.

12 5. On or about March 6, 1990, the Board of Pharmacy issued Registered Pharmacist  
13 License Number RPH 43114 to Carol Ann T. Malinis (Respondent Carol Ann T. Malinis). The  
14 Registered Pharmacist License will expire on July 31, 2021, unless renewed.

15 6. Respondent Carol Ann T. Malinis was the PIC of Respondent ChoiceCare Pharmacy  
16 from on or about April 30, 2019, to on or about January 12, 2020.

17 **JURISDICTION**

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

21 8. Section 4036 of the Code states, in pertinent part:

22 “Pharmacist” means a natural person to whom a license has been issued by the board, under  
23 Section 4200, except as specifically provided otherwise in this chapter. The holder of an  
24 unexpired and active pharmacist license issued by the board is entitled to practice pharmacy as  
25 defined by this chapter, within or outside of a licensed pharmacy as authorized by this chapter.

26 9. Section 4300 of the Code states, in pertinent part:

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

28 (b) The board shall discipline the holder of any license issued by the board,

1 whose default has been entered or whose case has been heard by the board and found  
2 guilty, by any of the following methods:

3 (1) Suspending judgment.

4 (2) Placing him or her upon probation.

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

6 (4) Revoking his or her license.

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

9 10. Section 4300.1 of the Code states:

10 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
11 by operation of law or by order or decision of the board or a court of law, the  
12 placement of a license on a retired status, or the voluntary surrender of a license by a  
13 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
14 investigation of, or action or disciplinary proceeding against, the licensee or to render  
15 a decision suspending or revoking the license.

16 11. Section 4307 of the Code states:

17 (a) Any person who has been denied a license or whose license has been  
18 revoked or is under suspension, or who has failed to renew his or her license while it  
19 was under suspension, or who has been a manager, administrator, owner, member,  
20 officer, director, associate, partner, or any other person with management or control  
21 of any partnership, corporation, trust, firm, or association whose application for a  
22 license has been denied or revoked, is under suspension or has been placed on  
23 probation, and while acting as the manager, administrator, owner, member, officer,  
24 director, associate, partner, or any other person with management or control had  
25 knowledge of or knowingly participated in any conduct for which the license was  
26 denied, revoked, suspended, or placed on probation, shall be prohibited from serving  
27 as a manager, administrator, owner, member, officer, director, associate, partner, or in  
28 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.

(b) "Manager, administrator, owner, member, officer, director, associate,  
partner, or any other person with management or control of a license" as used in this  
section and Section 4308, may refer to a pharmacist or to any other person who serves  
in such capacity in or for a licensee.

(c) The provisions of subdivision (a) may be alleged in any pleading filed  
pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of  
the Government Code. However, no order may be issued in that case except as to a  
person who is named in the caption, as to whom the pleading alleges the applicability

of this section, and where the person has been given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision shall be in addition to the board's authority to proceed under Section 4339 or any other provision of law.

12. Section 4113, subdivision (c), of the Code states that the pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

### **STATUTORY PROVISIONS**

13. Section 4059.5 of the Code states, in pertinent part:

(a) Except as otherwise provided in this chapter, dangerous drugs or dangerous devices may only be ordered by an entity licensed by the board and shall be delivered to the licensed premises and signed for and received by a pharmacist. Where a licensee is permitted to operate through a designated representative, or in the case of a reverse distributor a designated representative-reverse distributor, that individual shall sign for and receive the delivery.

14. Section 4081 of the Code states, in pertinent part:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

15. Section 4301 of the Code 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:

...

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

...

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

• • •

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

16. Section 11165, subdivision (d) of the Health and Safety Code provides that for each prescription for a Schedule II, Schedule III, Schedule IV, or Schedule V controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report certain required information to the department or contracted prescription data processing vendor as soon as reasonably possible, but not more than one working day after the date a controlled substance is released to the patient or patient's representative, in a format specified by the department:

## **REGULATORY PROVISIONS**

17. California Code of Regulations, title 16, section 1714, states, in pertinent part:

(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

18. California Code of Regulations, title 16, section 1715, states, in pertinent part:

(b) In addition to the self-assessment required in subdivision (a) of this section, the pharmacist-in-charge shall complete a self-assessment within 30 days whenever:

• • •

(2) There is a change in the pharmacist-in-charge, and he or she becomes the new pharmacist-in-charge of a pharmacy.

## COST RECOVERY

19. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.



1 **DRUG DEFINITION**

2 20. Carisoprodol, also known by the brand name of Soma, is a muscle relaxant that is a  
3 dangerous drug under Code section 4022.

4 **FACTUAL BACKGROUND**

5 21. On or about November 13, 2019, Board staff began a routine pharmacy inspection at  
6 Respondent pharmacy. The inspector subsequently found that the pharmacy was missing  
7 documentation regarding the disposition of carisoprodol tablets and had not been successfully  
8 reporting to the Controlled Substance Utilization Review and Evaluation System (CURES)  
9 regarding other substances. In addition, non-pharmacists had signed for carisoprodol under the  
10 prior pharmacist-in-charge, who attempted to subvert the Board investigation, and the new  
11 pharmacist-in-charge failed to fill out the required self-assessment within thirty days of starting.

12 **CHOICECARE PHARMACY**

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Operational Standards & Security)**

15 22. Respondent ChoiceCare Pharmacy is subject to disciplinary action for unprofessional  
16 conduct under Code section 4301, subdivision (o), in that it failed to comply with operational  
17 standards and security, as required by Code section 4081, subdivision (a), and California Code of  
18 Regulations, title 16, section 1714, subdivision (b). Respondent has not been able to explain or  
19 provide documentation regarding the disposition or loss of approximately 5,300 carisoprodol 350  
20 mg tablets purchased by the pharmacy between October 17, 2019 and March 30, 2020, from  
21 wholesalers Auburn and Cardinal/ParMed.

22 **CHOICECARE PHARMACY**

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Controlled Substance Reporting)**

25 23. Respondent ChoiceCare Pharmacy is subject to disciplinary action for unprofessional  
26 conduct under Code section 4301, subdivisions (j) and (o), in that it failed to comply with  
27 controlled substance reporting requirements in violation of Health and Safety Code section  
28 11165, subdivision (d). Respondent dispensed controlled substances on at least 29 occasions

1 between on or about August 12, 2019, and on or about July 2, 2020, but none of those  
2 prescriptions was properly reported to CURES.

3 **CHOICECARE PHARMACY**

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Self-Assessment)**

6 24. Respondent ChoiceCare Pharmacy is subject to disciplinary action for unprofessional  
7 conduct under Code section 4301, subdivision (o), in that it failed to have a new PIC file a self-  
8 assessment within 30 days, as required by California Code of Regulations, title 16, section 1715,  
9 subdivision (b)(2). The change-in-PIC form stated that Respondent Peter W. Chiu became the  
10 PIC on May 1, 2020, and Respondent Peter W. Chiu stated that he became PIC of Respondent  
11 ChoiceCare Pharmacy on or about May 20, 2020, but the self-assessment was not filled out until  
12 July 3, 2020.

13 **CHOICECARE PHARMACY**

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Board Investigation)**

16 25. Respondent ChoiceCare Pharmacy is subject to disciplinary action for unprofessional  
17 conduct under Code section 4301, subdivision (q), in that it attempted to subvert a Board  
18 investigation. Respondent Carol Ann T. Malinis, while PIC of Respondent ChoiceCare  
19 Pharmacy, provided a Board inspector an invoice from on or around October 17, 2019 (Invoice  
20 No. 3337859), which had a drug (carisoprodol, 500 tablets) removed from the document after the  
21 inspector had notified the pharmacy about its failure to account for carisoprodol.

22 **CHOICECARE PHARMACY**

23 **FIFTH CAUSE FOR DISCIPLINE**

24 **(Restrictions re Dangerous Drugs)**

25 26. Respondent ChoiceCare Pharmacy is subject to disciplinary action for unprofessional  
26 conduct under Code section 4301, subdivisions (j) and (o), in that it had a person other than a  
27 licensed pharmacist sign for and receive dangerous drugs, in violation of Code section 4059.5.  
28

Pharmacy technicians, instead of pharmacists, received deliveries of dangerous drugs on at least seven occasions between October 18, 2019, and March 25, 2020, as listed below:

- a. October 18, 2019, invoice number 3337859, by A.V.;
- b. January 16, 2020, invoice number 3349667, by A.V.;
- c. February 12, 2020, invoice number 3353555, by John Motelibano Talens;<sup>1</sup>
- d. February 19, 2020, invoice number 3354224, by John Motelibano Talens;
- e. February 20, 2020, invoice number 3354896, by John Motelibano Talens;
- f. March 10, 2020, invoice number 3357584, by John Motelibano Talens, and
- g. March 25, 2020, invoice number 3360567, by John Motelibano Talens.

**PETER W. CHIU**

**FIRST CAUSE FOR DISCIPLINE**

**(Controlled Substance Reporting)**

27. Respondent Peter W. Chiu is subject to disciplinary action for unprofessional conduct under Code section 4301, subdivisions (j) and (o), in that he failed to ensure that controlled substances were reported as required by Health and Safety Code section 11165. Respondent Peter W. Chiu was the PIC of Respondent ChoiceCare Pharmacy on or around July 3, 2020, when a Board inspector found that the pharmacy was not successfully reporting to CURES and was receiving rejection notices. More than one month later, the pharmacy still had not corrected the problem.

**PETER W. CHIU**

**SECOND CAUSE FOR DISCIPLINE**

**(Self-Assessment of PIC)**

28. Respondent Peter W. Chiu is subject to disciplinary action for unprofessional conduct under Code section 4301, subdivision (o), in that he failed to file a self-assessment within 30 days of becoming PIC of Respondent ChoiceCare Pharmacy, as required by California Code of Regulations, title 16, section 1715, subdivision (b)(2). Respondent ChoiceCare Pharmacy's

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<sup>1</sup> Respondent ChoiceCare Pharmacy Owner John Motelibano Talens is a registered pharmacy technician.

1 change-in-PIC form stated that Respondent Peter W. Chiu became the PIC on May 1, 2020, and  
2 Respondent Peter W. Chiu stated that he became PIC for Respondent ChoiceCare Pharmacy on or  
3 about May 20, 2020, but he failed to fill out the self-assessment form until July 3, 2020.

4 **CAROL ANN T. MALINIS**

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Operational Standards & Security)**

7 29. Respondent Carol Ann T. Malinis is subject to disciplinary action for unprofessional  
8 conduct under Code section 4301, subdivision (o), in that she failed to ensure compliance with  
9 operational standards and security as required by Code section 4081, subdivision (a), and  
10 California Code of Regulations, title 16, section 1714, subdivision (b). Respondent Carol Ann T.  
11 Malinis could not explain or account for the disposition or loss of approximately 2,300  
12 carisoprodol 350 mg tablets which were purchased by Respondent Choice Care Pharmacy  
13 between October 17, 2019, and December 17, 2019, from wholesalers Auburn and  
14 Cardinal/ParMed while Respondent Carol Ann T. Malinis was PIC of the pharmacy.

15 **CAROL ANN T. MALINIS**

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Controlled Substance Reporting)**

18 30. Respondent Carol Ann T. Malinis is subject to disciplinary action for unprofessional  
19 conduct under Code section 4301, subdivisions (j) and (o), in that she failed to ensure that  
20 controlled substances were reported as required by Health and Safety Code section 11165.  
21 Respondent Carol Ann T. Malinis was the PIC of Respondent ChoiceCare Pharmacy when it  
22 dispensed controlled substances on at least 18 occasions between on or about August 12, 2019,  
23 and on or about January 10, 2020, but none of those prescriptions was properly reported to  
24 CURES.

25 **CAROL ANN T. MALINIS**

26 **THIRD CAUSE FOR DISCIPLINE**

27 **(Board Investigation)**

28 31. Respondent Carol Ann T. Malinis is subject to disciplinary action for unprofessional

1 conduct under Code section 4301, subdivision (q), in that she attempted to subvert a Board  
2 investigation. Respondent Carol Ann T. Malinis, while PIC of Respondent ChoiceCare  
3 Pharmacy, provided a Board inspector an invoice from on or around October 17, 2019 (Invoice  
4 No. 3337859) which had a drug (carisoprodol, 500 tablets) removed from the document after the  
5 inspector had notified the pharmacy about its failure to account for carisoprodol.

6 **CAROL ANN T. MALINIS**

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Restrictions re Dangerous Drugs)**

9 32. Respondent Carol Ann T. Malinis is subject to disciplinary action for unprofessional  
10 conduct under Code section 4301, subdivisions (j) and (o), in that she had a person other than a  
11 licensed pharmacist sign for and receive dangerous drugs, in violation of Code section 4059.5.  
12 Respondent Carol Ann T Malinis was the PIC of Respondent ChoiceCare Pharmacy when  
13 Invoice Number 3337859 was signed for and received on October 18, 2019, by pharmacy  
14 technician A.V. instead of a pharmacist.

15 **DISCIPLINE CONSIDERATIONS**

16 33. Complainant alleges, as discipline considerations, that each respondent has received a  
17 citation by the Board, as follows:

18 A. On or about July 1, 2020, the Board issued Citation No. CI 2019 88653 to  
19 Respondent ChoiceCare Pharmacy (John Talens, Owner) for operating a pharmacy for more than  
20 30 days without a pharmacist-in-charge, in violation of Code section 4305, subdivision (d), and  
21 for failing to notify the Board within 30 days of the date of a change in pharmacist-in-charge, in  
22 violation of Code section 4113, subdivision (d). Respondent paid the \$200 fine and the citation is  
23 final.

24 B On or about June 7, 2018, the Board issued Citation No. CI 2017 80111 to  
25 Respondent Peter W. Chiu for dispensing a controlled substance prescription that was not on the  
26 proper form, in violation of California Code of Regulations, title 16, section 1761, subdivision  
27 (d), and Health and Safety Code section 11164, subdivision (a). Respondent paid the \$200 fine  
28 and the citation is final.

1 C. On or about September 16, 2016, the Board issued Citation No. CI 2016 72115 to  
2 Respondent Carol Ann T. Malinis for dispensing an incorrectly labeled prescription and providing  
3 incorrect controlled substance prescriber information to the Department of Justice, in violation of  
4 Code sections 4976, subdivision (a)(4), and 4077 subdivision (a), and Health and Safety Code  
5 section 11165, subd. (d)(2). Respondent paid the \$250 fine and the citation is final.

6 **OTHER MATTERS**

7 34. Under Code section 4307, if discipline is imposed on Original Permit Number PHY  
8 57291 issued to ChoiceCare Pharmacy (John Motelibano Talens, Owner, then ChoiceCare  
9 Pharmacy (John Motelibano Talens, Owner) shall be prohibited from serving as a manager,  
10 administrator, owner, member, officer, director, associate, or partner of a licensee for up to five  
11 years if Original Permit Number PHY 57291 is placed on probation or until Original Permit  
12 Number PHY is reinstated if it is revoked, in that ChoiceCare Pharmacy (John Talens, Owner)  
13 had knowledge of or participated in conduct subjecting the permit to discipline;

14 35. Under Code section 4307, if discipline is imposed on Original Permit Number PHY  
15 57291 issued to ChoiceCare Pharmacy (John Motelibano Talens, Owner), then Peter W. Chiu  
16 shall be prohibited from serving as a manager, administrator, owner, member, officer, director,  
17 associate, or partner of a licensee for up to five years if Original Permit Number PHY 57291 is  
18 placed on probation or until Original Permit Number PHY is reinstated if it is revoked, in that  
19 Peter W. Chiu, while Pharmacist-in-Charge, had knowledge of or participated in conduct  
20 subjecting the permit to discipline;

21 36. Under Code section 4307 if discipline is imposed on Registered Pharmacist License  
22 Number 30425, issued to Peter W. Chiu, then Peter W. Chiu shall be prohibited from serving as a  
23 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for up  
24 to five years if his registered pharmacist license is placed on probation or until his registered  
25 pharmacist license is reinstated if it is revoked.

26 37. Under Code section 4307, if discipline is imposed on Original Permit Number PHY  
27 57291 issued to ChoiceCare Pharmacy (John Motelibano Talens, Owner), then Carol Ann T.  
28 Malinis shall be prohibited from serving as a manager, administrator, owner, member, officer,

1 director, associate, or partner of a licensee for up to five years if Original Permit Number PHY  
2 57291 is placed on probation or until Original Permit Number PHY is reinstated if it is revoked,  
3 in that Carol Ann T. Malinis, while Pharmacist-in-Charge, was had knowledge of or participated  
4 in conduct subjecting the permit to discipline;

5 38. Under Code section 4307 if discipline is imposed on Registered Pharmacist License  
6 Number 43114, issued to Carol Ann T. Malinis, then Carol Ann T. Malinis shall be prohibited  
7 from serving as a manager, administrator, owner, member, officer, director, associate, or partner  
8 of a licensee for up to five years if her registered pharmacist license is placed on probation or  
9 until her registered pharmacist license is reinstated if it is revoked.

### 10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
12 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

13 1. Revoking or suspending Original Permit Number PHY 57291, issued to ChoiceCare  
14 Pharmacy;

15 2. Revoking or suspending Registered Pharmacist License Number RPH 43114, issued  
16 to Carol Ann T. Malinis;

17 3. Revoking or suspending Registered Pharmacist License Number RPH 30425, issued  
18 to Peter W. Chiu;

19 4. Prohibiting ChoiceCare Pharmacy (John Motelibano Talens, Owner) from serving as  
20 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
21 up to five years if Original Permit Number PHY 57291 is placed on probation or until the permit  
22 is reinstated if it is revoked;

23 5. Prohibiting Peter W. Chiu from serving as a manager, administrator, owner, member,  
24 officer, director, associate, or partner of a licensee for up to five years if Original Permit Number  
25 PHY 57291 is placed on probation or until the permit is reinstated if it is revoked;

26 6. Prohibiting Peter W. Chiu from serving as a manager, administrator, owner, member,  
27 officer, director, associate, or partner of a licensee for up to five years if his Original Pharmacist  
28 License number RPH 30425 is placed on probation or until the license is reinstated if revoked;

1           7.     Prohibiting Carol Ann T. Malinis from serving as a manager, administrator, owner,  
2 member, officer, director, associate, or partner of a licensee for up to five years if Original  
3 Pharmacy Number PHY 57291 is placed on probation or until the permit is reinstated if it is  
4 revoked;

5           8.     Prohibiting Carol Ann T. Malinis from serving as a manager, administrator, owner,  
6 member, officer, director, associate, or partner of a licensee for up to five years if Original  
7 Pharmacist License number RPH 43114 is placed on probation or until the license is reinstated if  
8 revoked;

9           9.     Ordering ChoiceCare Pharmacy (John Motelibano Talens, Owner), Peter W. Chiu,  
10 and Carol Ann T. Malinis to pay the Board of Pharmacy the reasonable costs of the investigation  
11 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

12          10.    Taking such other and further action as deemed necessary and proper.  
13  
14

15       DATED:    9/15/2021  
16

Signature on File

\_\_\_\_\_  
ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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