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5 **BEFORE THE**  
6 **BOARD OF PHARMACY**  
7 **DEPARTMENT OF CONSUMER AFFAIRS**  
8 **STATE OF CALIFORNIA**

9 In the Matter of the Accusation Against:

Case No. 7808

10 **MARY E. TOMLIN**  
11 **120 Lora Way**  
12 **Roseville, CA 95661**

**DEFAULT DECISION AND ORDER**

13 **Pharmacy Technician License No. TCH**  
14 **31661**

[Gov. Code, §11520]

Respondent.

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17 **FINDINGS OF FACT**

18 1. On or about June 10, 2024, Complainant Anne Sodergren, in her official capacity as  
19 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed  
20 Accusation No. 7808 against Mary E. Tomlin (Respondent) before the Board. (Accusation  
21 attached as Exhibit A.)

22 2. On or about December 1, 1999, the Board issued Pharmacy Technician License No.  
23 TCH 31661 to Respondent. The Pharmacy Technician License expired on December 31, 2023,  
24 and has not been renewed. This lapse in licensure does not deprive the Board of jurisdiction to  
25 commence or proceed with disciplinary action pursuant to Business and Professions Code (Code)  
26 section 4300.1.

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1           3.     On or about June 18, 2024, Respondent was served by Certified and First Class Mail  
2 copies of the Accusation No. 7808, Statement to Respondent, Notice of Defense, Request for  
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
5 is required to be reported and maintained with the Board. Respondent's address of record was  
6 and is:

7     120 Lora Way  
8     Roseville, CA 95661.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505(c) and/or Business and Professions Code section 124.

11          5.     Government Code section 11506(c) states, in pertinent part:

12               (c) The respondent shall be entitled to a hearing on the merits if the respondent  
13 files a notice of defense . . . and the notice shall be deemed a specific denial of all  
14 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense  
15 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its  
16 discretion may nevertheless grant a hearing.

17          6.     The Board takes official notice of its records and the fact that Respondent failed to  
18 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore  
19 waived her right to a hearing on the merits of Accusation No. 7808.

20          7.     California Government Code section 11520(a) states, in pertinent part:

21               (a) If the respondent either fails to file a notice of defense . . . or to appear at  
22 the hearing, the agency may take action based upon the respondent's express  
23 admissions or upon other evidence and affidavits may be used as evidence without  
24 any notice to respondent . . . .

25          8.     Pursuant to its authority under Government Code section 11520, the Board finds  
26 Respondent is in default. The Board will take action without further hearing and, based on the  
27 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
28 finds that the charges and allegations in Accusation No. 7808, are separately and severally, found  
to be true and correct by clear and convincing evidence.

          9.     The Board finds that the actual costs for Investigation and Enforcement are \$1,983.75  
as of July 15, 2024.

**DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Mary E. Tomlin has subjected her Pharmacy Technician License No. TCH 31661 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Respondent is subject to disciplinary action under Code sections 490, subdivision (a), and 4301, subdivision (l), on the grounds of unprofessional conduct, and Cal. Code Regs., title 16, section 1770, in that Respondent was convicted of crimes that are substantially related to the qualifications, functions or duties of a licensee. The facts and circumstances are as follows:

i. On or about July 11, 2023, in the case of *People v. Mary Elizabeth Tomlin* (Plumas County Superior Court case no. M23-00154), Respondent was convicted on her plea of no contest of violation of Vehicle Code section 23152, subdivision (a) (driving under the influence (DUI) of alcohol), a misdemeanor, with an admission to violation of Vehicle Code section 23538, subdivision (b)(2) (concentration of alcohol in blood of 0.20 percent or more). Respondent was sentenced to three years of summary probation with terms and conditions, including, but not limited to, serve four days in jail, complete a nine month first offender DUI program, abstain from use of alcohol, etc. The facts and circumstances are as follows: On or about March 2, 2023, Respondent drove a vehicle while under the influence of alcohol with a concentration of alcohol in her blood of .20 percent or more.

ii. On or about November 28, 2023, in the case of *People v. Elizabeth Tomlin* (Placer County Superior Court case number 62-192564), Respondent was convicted on her plea of no contest of violation of Vehicle Code section 23152, subdivision (a) (DUI of alcohol), a misdemeanor, with an admission to a prior DUI conviction on July 11, 2023. Respondent was sentenced to four years of formal probation with terms and conditions, including, but not limited to, serve 60 days in jail (which was stayed pending successful completion of a one-year Kaiser Treatment program), complete a 18 month multiple offender DUI program, abstain from use of

1 alcohol, submit to drug or alcohol testing, install an Interlock Ignition Device on vehicle, etc.  
2 The facts and circumstances are as follows: On or about April 18, 2023, Respondent drove a  
3 vehicle while under the influence of alcohol.

4 b. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),  
5 on the grounds of unprofessional conduct, in that on or about March 2, 2023, and April 18, 2023,  
6 Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself  
7 and the public when she drove a vehicle while under the influence of alcohol. The facts and  
8 circumstances are more fully set forth above.

9 c. Respondent is subject to disciplinary action under Code section 4301, subdivision (k),  
10 on the grounds of unprofessional conduct, in that Respondent was convicted of more than one  
11 misdemeanor involving the use, consumption, or self-administration of alcoholic beverage. The  
12 facts and circumstances are more fully set forth above.

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**ORDER**

IT IS SO ORDERED that Pharmacy Technician License No. TCH 31661, issued to Respondent Mary E. Tomlin, is revoked.

IT IS ALSO ORDERED that pursuant to Code section 4307, Respondent Mary E. Tomlin shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on September 20, 2024.

It is so ORDERED on August 21, 2024.

FOR THE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.  
Board President

38263870.DOCX  
DOJ Matter ID:SA2024301677

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation No. 7808

1 ROB BONTA  
Attorney General of California  
2 KAREN R. DENVIR  
Supervising Deputy Attorney General  
3 STEPHANIE ALAMO-LATIF  
Deputy Attorney General  
4 State Bar No. 283580  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-6112  
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7 E-mail: Stephanie.AlamoLatif@doj.ca.gov  
*Attorneys for Complainant*

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9 **BEFORE THE**  
10 **BOARD OF PHARMACY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
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13 In the Matter of the Accusation Against:

Case No. 7808

14 **MARY E. TOMLIN**  
15 **120 Lora Way**  
**Roseville, CA 95661**

**ACCUSATION**

16 **Pharmacy Technician License No. TCH**  
17 **31661**

Respondent.

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20 **PARTIES**

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

23 2. On or about December 1, 1999, the Board issued Pharmacy Technician License  
24 Number TCH 31661 to Mary E. Tomlin (Respondent). The Pharmacy Technician License  
25 expired on December 31, 2023, and has not been renewed.

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1 **JURISDICTION**

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

5 4. Code section 4300 states, in pertinent part, that every license issued may be  
6 suspended or revoked.

7 5. Code section 4300.1 states:  
8 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
9 operation of law or by order or decision of the board or a court of law, the placement of a license  
10 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
11 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
12 proceeding against, the licensee or to render a decision suspending or revoking the license."

13 6. Code section 4011 states:  
14 The board shall administer and enforce this chapter and the Uniform Controlled Substances  
15 Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).

16 **STATUTORY/REGULATORY PROVISIONS**

17 7. Code section 490 states, in pertinent part:  
18 (a) In addition to any other action that a board is permitted to take against a licensee, a  
19 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
20 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
21 or profession for which the license was issued.

22 8. Code section 4301 states, in pertinent part:  
23 The board shall take action against any holder of a license who is guilty of  
24 unprofessional conduct or whose license has been issued by mistake. Unprofessional  
conduct shall include, but is not limited to, any of the following:

25 (h) The administering to oneself, of any controlled substance, or the use of any  
26 dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
27 dangerous or injurious to oneself, to a person holding a license under this chapter, or  
to any other person or to the public, or to the extent that the use impairs the ability of  
the person to conduct with safety to the public the practice authorized by the license.

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1 (k) The conviction of more than one misdemeanor or any felony involving the  
2 use, consumption, or self-administration of any dangerous drug or alcoholic beverage,  
3 or any combination of those substances.

4 (l) The conviction of a crime substantially related to the qualifications,  
5 functions, and duties of a licensee under this chapter. The record of conviction of a  
6 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
7 States Code regulating controlled substances or of a violation of the statutes of this  
8 state regulating controlled substances or dangerous drugs shall be conclusive  
9 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
10 be conclusive evidence only of the fact that the conviction occurred. The board may  
11 inquire into the circumstances surrounding the commission of the crime, in order to  
12 fix the degree of discipline or, in the case of a conviction not involving controlled  
13 substances or dangerous drugs, to determine if the conviction is of an offense  
14 substantially related to the qualifications, functions, and duties of a licensee under this  
15 chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
16 contendere is deemed to be a conviction within the meaning of this provision. The  
17 board may take action when the time for appeal has elapsed, or the judgment of  
18 conviction has been affirmed on appeal or when an order granting probation is made  
19 suspending the imposition of sentence, irrespective of a subsequent order under  
20 Section 1203.4 of the Penal Code allowing the person to withdraw their plea of guilty  
21 and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing  
22 the accusation, information, or indictment.

23 9. Code section 4307 states, in pertinent part:

24 (a) Any person whose license has been revoked or is under suspension, shall be  
25 prohibited from serving as a manager, administrator, owner, member, officer,  
26 director, associate, partner, or in any other position with management or control of a  
27 licensee as follows:

28 (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.

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10. California Code of Regulations (Cal. Code Regs.), title 16, section 1770 states:

(a) For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions or duties of the practice, profession, or occupation that may be performed under the license type sought or held if to a substantial degree it evidences present or potential unfitness of an applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board will consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of the practice, profession, or occupation that may be performed under the license type sought or held.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, those which:

(1) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction, governing the practice of pharmacy.

(2) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or any law of this state, or any other jurisdiction, relating to controlled substances or dangerous drugs.

(3) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction, relating to government provided or government supported healthcare.

(4) Involve dishonesty, fraud, deceit, or corruption related to money, items, documents, or personal information.

(5) Involve a conviction for driving under the influence of drugs or alcohol.

#### **COST RECOVERY**

11. 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.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of Crimes)**

3 12. Respondent is subject to disciplinary action under Code sections 490, subdivision (a),  
4 and 4301, subdivision (I), on the grounds of unprofessional conduct, and Cal. Code Regs., title  
5 16, section 1770, in that Respondent was convicted of crimes that are substantially related to the  
6 qualifications, functions or duties of a licensee. The facts and circumstances are as follows:

7 a. On or about July 11, 2023, in the case of *People v. Mary Elizabeth Tomlin* (Plumas  
8 County Superior Court case no. M23-00154), Respondent was convicted on her plea of no contest  
9 of violation of Vehicle Code section 23152, subdivision (a) (driving under the influence (DUI) of  
10 alcohol), a misdemeanor, with admission to violation of Vehicle Code section 23538, subdivision  
11 (b)(2) (concentration of alcohol in blood of 0.20 percent or more). Respondent was sentenced to  
12 three years summary probation with terms and conditions, including, but not limited to, serve four  
13 days in jail, complete a nine month first offender DUI program, abstain from use of alcohol, etc.

14 The facts and circumstances are as follows:

15 i. On or about March 2, 2023, an officer with the California Highway Patrol  
16 (CHP) was dispatched to the scene of a report of a vehicle collision into a parked vehicle that was  
17 in a private driveway. When the officer arrived, medical personnel were on scene speaking with  
18 the driver of the vehicle, identified as Respondent. The officer approached Respondent's vehicle  
19 and listened through the open passenger window while medical personnel spoke with  
20 Respondent. The officer could smell the odor of an alcoholic beverage coming from the  
21 passenger compartment of Respondent's vehicle. The officer observed two alcohol bottles that  
22 appeared to be Smirnoff vodka on the passenger seat and floorboard. The officer contacted  
23 Respondent and began explaining that the medical personnel were attempting to check on her  
24 health and wellbeing, as Respondent did not want medical assistance. As the officer was  
25 speaking with Respondent, she continually kept yelling profanities at the owner of the parked  
26 vehicle. The officer could smell the odor of alcohol coming from Respondent's breath as she  
27 spoke. Respondent's speech was slow and slurred, her eyes were watery and blood shot, she  
28 appeared confused, nervous, and took a long time to form sentences. Respondent agreed to walk

1 with medical personnel to the ambulance to be evaluated. While walking towards the ambulance,  
2 the officer observed that Respondent had an unsteady gait and had to grab the medical personnel  
3 to maintain her balance. Once in the ambulance, Respondent was uncooperative with the medical  
4 personnel and the CHP officer. Respondent refused to answer pre Field Sobriety Test (FST)  
5 questions, and refused to perform FSTs. Respondent became irate and reached in her purse,  
6 grabbed a cigarette and a lighter, and began to attempt to light the cigarette in the back of the  
7 ambulance. Respondent refused to listen to the officer when he asked her to stop trying to light  
8 the cigarette while in the ambulance. Respondent eventually submitted to a chemical blood test,  
9 which returned results of .239% blood alcohol concentration (BAC).

10 b. On or about November 28, 2023, in the case of *People v. Elizabeth Tomlin* (Placer  
11 County Superior Court case number 62-192564), Respondent was convicted on her plea of no  
12 contest of violation of Vehicle Code section 23152, subdivision (a) (DUI of alcohol), a  
13 misdemeanor, with admission to a prior DUI conviction on July 11, 2023. Respondent was  
14 sentenced to four years formal probation with terms and conditions, including, but not limited to,  
15 serve 60 days in jail, which was stayed pending successful completion of a one-year Kaiser  
16 Treatment program, complete a 18 month multiple offender DUI program, abstain from use of  
17 alcohol, submit to drug or alcohol testing, install an Interlock Ignition Device on vehicle, etc.  
18 The facts and circumstances are as follows:

19 i. On or about April 18, 2023, a CHP officer was dispatched to a location on  
20 Auburn Folsom Blvd for a suspected DUI. Upon arrival, the officer learned that a witness was  
21 working at a Verizon store when Respondent went into the store to purchase something. While in  
22 the store, Respondent appeared off and smelled of alcohol. After she left the store, the witness  
23 called 911, as Respondent was driving a vehicle. Upon contact with Respondent, the CHP officer  
24 detected the strong odor of an alcoholic beverage emitting from her person. Her eyes were red  
25 and watery and her speech was slow. Respondent admitted that she had drank beers with lunch.  
26 Respondent submitted to a breath test, which returned results of .13% and .14%.

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1           3.     Ordering Mary E. Tomlin to pay the Board of Pharmacy the reasonable costs of the  
2 investigation and enforcement of this case, pursuant to Business and Professions Code section  
3 125.3; and, if placed on probation, the costs of probation monitoring; and,

4           4.     Taking such other and further action as deemed necessary and proper.

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7     DATED: 6/10/2024

Sodergren,  
Anne@DCA

Digitally signed by  
Sodergren, Anne@DCA  
Date: 2024.06.10  
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ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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