

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

In the Matter of the Accusation Against:

MARY FATOUH ALBANA, Respondent

Pharmacy Technician Registration No. TCH 79154

Agency Case No. 7841

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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, 2025.

It is so ORDERED on January 13, 2025.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

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9 **BEFORE THE**
10 **BOARD OF PHARMACY**

11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **MARY FATOUH ALBANA**
15 **833 Glenwood Wy**
Escondido, CA 92026

16 **Pharmacy Technician Registration No.**
17 **TCH 79154**

18 Respondent.

Case No. 7841

OAH No.

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

22 **PARTIES**

23 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
24 (Board). She brought this action solely in her official capacity and is represented in this matter by
25 Rob Bonta, Attorney General of the State of California, by Erin M. Sunseri, Supervising Deputy
26 Attorney General.

27 2. Mary Fatouh Albana (Respondent) is representing herself in this proceeding and has
28 chosen not to exercise her right to be represented by counsel.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 79154 issued
3 to Respondent Mary Fatouh Albana is revoked. However, the revocation is stayed and
4 Respondent is placed on probation for three (3) years on the following terms and conditions:

5 **1. Obey All Laws**

6 Respondent shall obey all state and federal laws and regulations.

7 Respondent shall report any of the following occurrences to the board, in writing, within
8 seventy- two (72) hours of such occurrence:

- 9
- 10 • an arrest or issuance of a criminal complaint for violation of any provision of the
11 Pharmacy Law, state and federal food and drug laws, or state and federal
12 controlled substances laws
 - 13 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
14 criminal proceeding to any criminal complaint, information or indictment
 - 15 • a conviction of any crime
 - 16 • the filing of a disciplinary pleading, issuance of a citation, or initiation of another
17 administrative action filed by any state or federal agency which involves
18 Respondent’s license or which is related to the practice of pharmacy or the
19 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
20 device or controlled substance.

21 Failure to timely report such occurrence shall be considered a violation of probation.

22 **2. Report to the Board**

23 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
24 designee. The report shall be made either in person or in writing, as directed. Among other
25 requirements, Respondent shall state in each report under penalty of perjury whether there has
26 been compliance with all the terms and conditions of probation.

27 Failure to submit timely reports in a form as directed shall be considered a violation of
28 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
total period of probation. Moreover, if the final probation report is not made as directed,

1 probation shall be automatically extended until such time as the final report is made and accepted
2 by the board.

3 **3. Interview with the Board**

4 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
5 with the board or its designee, at such intervals and locations as are determined by the board or its
6 designee. Failure to appear for any scheduled interview without prior notification to board staff,
7 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
8 the period of probation, shall be considered a violation of probation.

9 **4. Cooperate with Board Staff**

10 Respondent shall timely cooperate with the board's inspection program and with the board's
11 monitoring and investigation of respondent's compliance with the terms and conditions of her
12 probation, including but not limited to: timely responses to requests for information by board
13 staff; timely compliance with directives from board staff regarding requirements of any term or
14 condition of probation; and timely completion of documentation pertaining to a term or condition
15 of probation. Failure to timely cooperate shall be considered a violation of probation.

16 **5. Reporting of Employment and Notice to Employers**

17 During the period of probation, Respondent shall notify all present and prospective
18 employers of the decision in case number 7841 and the terms, conditions and restrictions imposed
19 on respondent by the decision, as follows:

20 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
21 undertaking any new employment, Respondent shall report to the board in writing the name,
22 physical address, and mailing address of each of her employer(s), and the name(s) and telephone
23 number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in-charge, designated
24 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
25 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
26 employment. Respondent shall sign and return to the board a written consent authorizing the
27 board or its designee to communicate with all of Respondent's employer(s) and supervisor(s), and
28 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,

1 concerning Respondent's work status, performance, and monitoring. Failure to comply with the
2 requirements or deadlines of this condition shall be considered a violation of probation.

3 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
4 Respondent undertaking any new employment, Respondent shall cause (a) her direct supervisor,
5 (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
6 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the
7 board in writing acknowledging that the listed individual(s) has/have read the decision in case
8 number 7841, and terms and conditions imposed thereby. If one person serves in more than one
9 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's
10 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
11 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
12 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in
13 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
14 in case number 7841, and the terms and conditions imposed thereby.

15 If Respondent works for or is employed by or through an employment service, Respondent
16 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
17 of the decision in case number 7841, and the terms and conditions imposed thereby in advance of
18 Respondent commencing work at such licensed entity. A record of this notification must be
19 provided to the board upon request.

20 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
21 (15) days of Respondent undertaking any new employment by or through an employment service,
22 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
23 service to report to the board in writing acknowledging that he or she has read the decision in case
24 number, and the terms and conditions imposed thereby. It shall be Respondent's responsibility to
25 ensure that these acknowledgment(s) are timely submitted to the board.

26 Failure to timely notify present or prospective employer(s) or failure to cause the identified
27 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
28 shall be considered a violation of probation.

1 "Employment" within the meaning of this provision includes any full-time, part-time,
2 temporary, relief, or employment/management service position as a pharmacy technician , or any
3 position for which a pharmacy technician is a requirement or criterion for employment, whether
4 the Respondent is an employee, independent contractor or volunteer.

5 **6. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

6 Respondent shall further notify the board in writing within ten (10) days of any change in
7 name, residence address, mailing address, e-mail address or phone number.

8 Failure to timely notify the board of any change in employer, name, address, or phone
9 number shall be considered a violation of probation.

10 **7. Reimbursement of Board Costs**

11 As a condition precedent to successful completion of probation, Respondent shall pay to the
12 board its costs of investigation and prosecution in the amount of \$2,944.80. Respondent shall be
13 permitted to pay these costs in a payment plan approved by the board or its designee, so long as
14 full payment is completed no later than one (1) year prior to the end date of probation.

15 There shall be no deviation from this schedule absent prior written approval by the board or
16 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
17 probation.

18 **8. Probation Monitoring Costs**

19 Respondent shall pay any costs associated with probation monitoring as determined by the
20 board each and every year of probation. Such costs shall be payable to the board on a schedule as
21 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
22 be considered a violation of probation.

23 **9. Status of License**

24 Respondent shall, at all times while on probation, maintain an active, current Pharmacy
25 Technician Registration with the board, including any period during which suspension or
26 probation is tolled. Failure to maintain an active, current Pharmacy Technician Registration shall
27 be considered a violation of probation.

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1 If Respondent's Pharmacy Technician Registration expires or is cancelled by operation of
2 law or otherwise at any time during the period of probation, including any extensions thereof due
3 to tolling or otherwise, upon renewal or reapplication Respondent's license shall be subject to all
4 terms and conditions of this probation not previously satisfied.

5 **10. License Surrender While on Probation/Suspension**

6 Following the effective date of this decision, should Respondent cease practice due to
7 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
8 Respondent may relinquish her license, including any indicia of licensure issued by the board,
9 along with a request to surrender the license. The board or its designee shall have the discretion
10 whether to accept the surrender or take any other action it deems appropriate and reasonable.
11 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to
12 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
13 become a part of the Respondent's license history with the board.

14 Upon acceptance of the surrender, Respondent shall relinquish her pocket and/or wall
15 license, including any indicia of licensure not previously provided to the board within ten (10)
16 days of notification by the board that the surrender is accepted if not already provided.
17 Respondent may not reapply for any license from the board for three (3) years from the effective
18 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
19 of the date the application for that license is submitted to the Board, including any outstanding
20 costs.

21 **11. Certification Prior to Resuming Work**

22 Respondent shall maintain an active, current certification as defined by Business and
23 Professions Code section 4202, subdivision (a)(4), for the entire period of probation, and shall
24 submit proof of re-certification or renewal of certification to the board within ten (10) days of
25 receipt. Failure to maintain active, current certification or to timely submit proof of same shall be
26 considered a violation of probation.

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1 **12. Practice Requirement – Extension of Probation**

2 Except during periods of suspension, respondent shall, at all times while on probation, be
3 employed as a pharmacy technician in California for a minimum of one hundred (100) hours per
4 calendar month. Any month during which this minimum is not met shall extend the period of
5 probation by one month. During any such period of insufficient employment, Respondent must
6 nonetheless comply with all terms and conditions of probation, unless Respondent receives a
7 waiver in writing from the board or its designee.

8 If Respondent does not practice as a pharmacy technician in California for the minimum
9 number of hours in any calendar month, for any reason (including vacation), Respondent shall
10 notify the board in writing within ten (10) days of the conclusion of that calendar month. This
11 notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s)
12 for the interruption or reduction in practice; and the anticipated date(s) on which Respondent will
13 resume practice at the required level. Respondent shall further notify the board in writing within
14 ten (10) days following the next calendar month during which Respondent practices as a
15 pharmacy technician in California for the minimum of hours. Any failure to timely provide such
16 notification(s) shall be considered a violation of probation.

17 It is a violation of probation for Respondent's probation to be extended pursuant to the
18 provisions of this condition for a total period, counting consecutive and non-consecutive months,
19 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
20 probation period on its website.

21 **13. Violation of Probation**

22 If Respondent has not complied with any term or condition of probation, the Board shall
23 have continuing jurisdiction over Respondent, and the board shall provide notice to Respondent
24 that probation shall automatically be extended, until all terms and conditions have been satisfied
25 or the board has taken other action as deemed appropriate to treat the failure to comply as a
26 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
27 board or its designee may post a notice of the extended probation period on its website.

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1 If Respondent violates probation in any respect, the board, after giving Respondent notice
2 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
3 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
4 probation, or the preparation of an accusation or petition to revoke probation is requested from
5 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
6 probation shall be automatically extended until the petition to revoke probation or accusation is
7 heard and decided.

8 **14. Completion of Probation**

9 Upon written notice by the board or its designee indicating successful completion of
10 probation, Respondent's license will be fully restored.

11 **15. Drug and Alcohol Testing**

12 Respondent, at her own expense, shall participate in testing as directed by the Board or its
13 designee for the detection of alcohol, controlled substances, and dangerous drugs and/or
14 dangerous devices. Testing protocols may include biological fluid testing (urine, blood),
15 breathalyzer, hair follicle testing, or other testing protocols as directed by the Board or its
16 designee. All testing must be pursuant to an observed testing protocol, unless Respondent is
17 informed otherwise in writing by the Board or its designee. Respondent may be required to
18 participate in testing for the entire probation period and frequency of testing will be determined
19 by the Board or its designee.

20 By no later than thirty (30) days after the effective date of this decision, Respondent shall
21 have completed all of the following tasks: enrolled and registered with an approved drug and
22 alcohol testing vendor; provided that vendor with any documentation, and any information
23 necessary for payment by Respondent; commenced testing protocols, including all required
24 contacts with the testing vendor to determine testing date(s); and begun testing. At all times,
25 Respondent shall fully cooperate with the testing vendor, and with the board or its designee, with
26 regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to
27 cooperate timely shall be considered a violation of probation.

28

1 Respondent may be required to test on any day, including weekends and holidays.
2 Respondent is required to make daily contact with the testing vendor to determine if a test is
3 required, and if a test is required must submit to testing on the same day.

4 Prior to any vacation or other period of absence from the area where the approved testing
5 vendor provides services, Respondent shall seek and receive approval from the Board or its
6 designee to use an alternate testing vendor to ensure testing can occur. Upon approval,
7 Respondent shall enroll and register with the approved alternate drug testing vendor, provide to
8 that alternate vendor any documentation required by the vendor, including any necessary payment
9 by Respondent. During the period of absence of the area, Respondent shall commence testing
10 protocols with the alternate vendor, including required daily contacts with the testing vendor to
11 determine if testing is required, and required testing. Any failure to timely seek or receive
12 approval from the board or its designee, or to timely enroll and register with, timely commence
13 testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be
14 considered a violation of probation.

15 Upon detection of an illicit drug, controlled substance or dangerous drug, the Board or its
16 designee may require Respondent to timely provide documentation from a licensed practitioner
17 authorized to prescribe the detected substance demonstrating that the substance was administered
18 or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such
19 documentation shall be provided by Respondent within ten (10) days of being requested.

20 Any of the following shall be considered a violation of probation and shall result in
21 Respondent being immediately suspended from practice as a pharmacy technician until notified
22 by the Board in writing that she may resume practice: failure to timely complete all of the steps
23 required for enrollment/registration with the drug testing vendor, including making arrangements
24 for payment; failure to timely commence drug testing protocols; failure to contact the drug testing
25 vendor as required to determine testing date(s); failure to test as required; failure to timely supply
26 documentation demonstrating that a detected substance was taken pursuant to a legitimate
27 prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or
28 of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the

1 detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In
2 the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a
3 controlled substance or dangerous drug absent documentation that the detected substance was
4 taken pursuant to a legitimate prescription and a necessary treatment, the Board or its designee
5 shall inform Respondent of the suspension and inform her to immediately leave work, and shall
6 notify Respondent's employer(s) and work site monitor(s) of the suspension.

7 During any such suspension, Respondent shall not enter any pharmacy area or any portion
8 of the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal
9 drug retailer, or any other distributor of drugs which is licensed by the board, or any
10 manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled
11 substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug
12 selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor
13 shall Respondent manage, administer, or be a consultant to any licensee of the board, or have
14 access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs
15 and/or dangerous devices and controlled substances.

16 During any such suspension, Respondent shall not engage in any activity that requires the
17 professional judgment of and/or licensure as a pharmacy technician . Respondent shall not direct
18 or control any aspect of the practice of pharmacy, or of the manufacturing, distributing,
19 wholesaling, or retailing of dangerous drugs and/or dangerous devices.

20 Failure to comply with any such suspension shall be considered a violation of probation.
21 Failure to comply with any requirement or deadline stated by this term shall be considered a
22 violation of probation.

23 **16. Notification of Departure**

24 Prior to leaving the probationary geographic area designated by the board or its designee for
25 a period greater than twenty-four (24) hours, Respondent shall notify the board verbally and in
26 writing of the dates of departure and return. Failure to comply with this provision shall be
27 considered a violation of probation.

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1 **17. Abstain from Drugs and Alcohol**

2 Respondent shall completely abstain from the possession or use of alcohol, controlled
3 substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated
4 paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a
5 necessary part of treatment. Respondent shall ensure that she is not in the same physical location
6 as individuals who are using illicit substances even if Respondent is not personally ingesting the
7 drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices or controlled
8 substances, or their associated paraphernalia for which a legitimate prescription has not been
9 issued as a necessary part of treatment, or any physical proximity to persons using illicit
10 substances, shall be considered a violation of probation.

11 **18. Prescription Coordination and Monitoring of Prescription Use**

12 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
13 Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
14 physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the
15 Respondent's history with the use of alcohol, and who will coordinate and monitor any
16 prescriptions for Respondent for dangerous drugs and/or dangerous devices, controlled substances
17 or mood-altering drugs. The approved practitioner shall be provided with a copy of the Board's
18 Accusation and decision. A record of this notification must be provided to the Board or its
19 designee upon request. Respondent shall sign a release authorizing the practitioner to
20 communicate with the Board or its designee about Respondent's treatment(s). The coordinating
21 physician, nurse practitioner, physician assistant, or psychiatrist shall report to the Board on a
22 quarterly basis for the duration of probation regarding Respondent's compliance with this
23 condition. If any substances considered addictive have been prescribed, the report shall identify a
24 program for the time limited use of any such substances. The board or its designee may require
25 that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a
26 specialist in addictive medicine, or consult a specialist in addictive medicine. Should
27 Respondent, for any reason, cease supervision by the approved practitioner, Respondent shall
28 notify the board or its designee immediately and, within thirty (30) days of ceasing supervision,

1 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist
2 of Respondent's choice to the board or its designee for its prior approval. Failure to timely submit
3 the selected practitioner or replacement practitioner to the board or its designee for approval, or to
4 ensure the required quarterly reporting thereby, shall be considered a violation of probation.

5 If at any time an approved practitioner determines that Respondent is unable to practice
6 safely or independently as a pharmacy technician, the practitioner shall notify the board or its
7 designee immediately by telephone and follow up by written letter within three (3) working days.
8 Upon notification from the board or its designee of this determination, Respondent shall be
9 automatically suspended and shall not resume practice as a pharmacy technician until notified by
10 the Board or its designee that practice may be resumed.

11 During any suspension, Respondent shall not enter any pharmacy area or any portion of the
12 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug
13 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
14 any area where dangerous drugs and/or dangerous devices or controlled substances are
15 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,
16 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
17 Respondent manage, administer, or be a consultant to any licensee of the board, or have access to
18 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
19 dangerous devices and controlled substances. Respondent shall not resume practice until notified
20 by the board.

21 During any suspension, Respondent shall not engage in any activity that requires the
22 professional judgment and/or licensure as a pharmacy technician. Respondent shall not direct or
23 control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling,
24 or retailing of dangerous drugs and/or dangerous devices or controlled substances.

25 Failure to comply with any requirement or deadline stated by this term shall be considered a
26 violation of probation.

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1 **19. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

2 Within thirty (30) days of the effective date of this decision, Respondent shall begin regular
3 attendance at a recognized and established substance abuse recovery support group in California
4 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board
5 or its designee. Respondent must attend the number of group meetings per week or month
6 directed by the Board or its designee, which shall typically be at least one per week. Respondent
7 shall continue regular attendance and submit signed and dated documentation confirming
8 attendance with each quarterly report for the duration of probation. Failure to attend or submit
9 documentation thereof shall be considered a violation of probation.

10 Where Respondent is enrolled in the PRP, participation as required in a recovery group
11 meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any
12 deviation from participation requirements for the PRP-approved group shall be considered a
13 violation of probation.

14 **20. No Ownership or Management of Licensed Premises**

15 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
16 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
17 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
18 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
19 days following the effective date of this decision and shall immediately thereafter provide written
20 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
21 documentation thereof shall be considered a violation of probation.

22 **21. Criminal Probation/Parole Reports**

23 Within ten (10) days of the effective date of this decision, or within ten (10) days of the
24 issuance or assignment/replacement of same, whichever is earlier, Respondent shall provide the
25 Board or its designee in writing: a copy of the conditions of any criminal probation/parole
26 applicable to Respondent; and the name and contact information of any probation, parole or
27 similar supervisory officer assigned to Respondent. Respondent shall provide a copy of all
28 criminal probation/parole reports to the board within ten (10) days after such report is issued.

1 Failure to timely make any of the submissions required hereby shall be considered a violation of
2 probation.

3 **ACCEPTANCE**

4 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
5 stipulation and the effect it will have on my Pharmacy Technician Registration . I enter into this
6 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
7 to be bound by the Decision and Order of the Board of Pharmacy, .

8
9 DATED: _____

10 MARY FATOUH ALBANA
11 *Respondent*

12 **ENDORSEMENT**

13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
14 submitted for consideration by the Board of Pharmacy, .

15 DATED: _____

Respectfully submitted,

16 ROB BONTA
17 Attorney General of California
18 MARICHELLE S. TAHIMIC
19 Supervising Deputy Attorney General

20 ERIN M. SUNSERI
21 Supervising Deputy Attorney General
22 *Attorneys for Complainant*

23
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7 to be bound by the Decision and Order of the Board of Pharmacy, .

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9 DATED: 11/01/2024



MARY FATOUH ALBANA
Respondent

11 **ENDORSEMENT**

12 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
13 submitted for consideration by the Board of Pharmacy, .

14
15 DATED: 11/1/2024

Respectfully submitted,

16 ROB BONTA
Attorney General of California
17 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General



18 ERIN M. SUNSERI
19 Supervising Deputy Attorney General
20 *Attorneys for Complainant*

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Exhibit A

Accusation No. 7841

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9 **BEFORE THE**
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13 In the Matter of the Accusation Against:

Case No. 7841

14 **MARY FATOUH ALBANA**
15 **833 Glenwood Wy**
Escondido, CA 92026

FIRST AMENDED ACCUSATION

16 **Pharmacy Technician License No. TCH**
17 **79154**

Respondent.

18
19 **PARTIES**

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

23 2. On or about October 31, 2007, the Board issued Pharmacy Technician License
24 Number TCH 79154 to Mary Fatouh Albana (Respondent). The Pharmacy Technician License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 August 31, 2025, unless renewed.

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1 **JURISDICTION**

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

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

8 5. Code section 4300, subdivision (a), states, “Every license issued may be suspended or
9 revoked.”

10 6. Code section 4300.1 states:

11 The expiration, cancellation, forfeiture, or suspension of a board-issued license
12 by operation of law or by order or decision of the board or a court of law, the placement
13 of a license on a retired status, or the voluntary surrender of a license by a licensee shall
14 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.

15 **STATUTORY PROVISIONS**

16 7. Code section 482 states:

17 (a) Each board under this code shall develop criteria to evaluate the rehabilitation
18 of a person when doing either of the following:

- 19 (1) Considering the denial of a license by the board under Section 480.
- 20 (2) Considering suspension or revocation of a license under Section 490.

21 (b) Each board shall consider whether an applicant or licensee has made a
showing of rehabilitation if either of the following are met:

- 22 (1) The applicant or licensee has completed the criminal sentence at issue
23 without a violation of parole or probation.
- 24 (2) The board, applying its criteria for rehabilitation, finds that the applicant
is rehabilitated.

25

26 8. Code section 490 provides, in pertinent part, that a board may suspend or revoke a
27 license on the ground that the licensee has been convicted of a crime substantially related to the
28 qualifications, functions, or duties of the business or profession for which the license was issued.

1 9. Code section 493 states:

2 (a) Notwithstanding any other law, in a proceeding conducted by a board within
3 the department pursuant to law to deny an application for a license or to suspend or
4 revoke a license or otherwise take disciplinary action against a person who holds a

5 license, upon the ground that the applicant or the licensee has been convicted of a crime
6 substantially related to the qualifications, functions, and duties of the licensee in
7 question, the record of conviction of the crime shall be conclusive evidence of the fact
8 that the conviction occurred, but only of that fact.

9 (b) (1) Criteria for determining whether a crime is substantially related to the
10 qualifications, functions, or duties of the business or profession the board regulates
11 shall include all of the following:

12 (A) The nature and gravity of the offense.

13 (B) The number of years elapsed since the date of the offense.

14 (C) The nature and duties of the profession.

15 (2) A board shall not categorically bar an applicant based solely on the type
16 of conviction without considering evidence of rehabilitation.

17 (c) As used in this section, "license" includes "certificate," "permit," "authority,"
18 and "registration."

19

20 10. Code section 4301 states:

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

24 ...

25 (g) Knowingly making or signing any certificate or other document that falsely
26 represents the existence or nonexistence of a state of facts.

27 (h) The administering to oneself, of any controlled substance, or the use of any
28 dangerous drug or of alcoholic beverages to the extent or in a manner as to be 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.

...

(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 inquire into the

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

12

13 11. Code section 4307 states:

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

26 (1) Where a probationary license is issued or where an existing license is
27 placed on probation, this prohibition shall remain in effect for a period not to exceed
28 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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1 **REGULATORY PROVISIONS**

2 12. California Code of Regulations, title 16, section 1769, subdivision (c), states:

3 When considering the suspension or revocation of a facility or a personal
4 license on the ground that the licensee has been convicted of a crime, the board will
5 consider whether the licensee made a showing of rehabilitation and is presently fit for
6 a license, if the licensee completed the criminal sentence at issue without a violation
7 of parole or probation. In making this determination, the board will consider the
8 criteria in subdivisions (b)(1)(A) through (E). If the licensee has not completed the
9 criminal sentence at issue without a violation of parole or probation or the board
10 determines that the licensee did not make the showing of rehabilitation based on the
11 criteria in subdivisions (b)(1)(A) through (E), the board will apply the following
12 criteria in evaluating the licensee's rehabilitation:

- 13 (1) Nature and gravity of the act(s) or offenses.
- 14 (2) Total criminal record.
- 15 (3) The time that has elapsed since commission of the act(s) or offenses.
- 16 (4) Whether the licensee has complied with all terms of parole, probation,
17 restitution or any other sanctions lawfully imposed against the licensee.
- 18 (5) The criteria in subdivisions (b)(1)(A) through (E), as applicable.
- 19 (6) Evidence, if any, of rehabilitation submitted by the licensee, including as
20 provided in the board's Disciplinary Guidelines, identified in section 1760.

21 13. California Code of Regulations, title 16, section 1770, states:

22 (a) For the purpose of denial, suspension, or revocation of a personal or facility
23 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
24 Business and Professions Code, a crime, professional misconduct, or act shall be
25 considered substantially related to the qualifications, functions or duties of the
26 practice, profession, or occupation that may be performed under the license type
27 sought or held if to a substantial degree it evidences present or potential unfitness of
28 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 ...

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

4 **COST RECOVERY**

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

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(September 18, 2023 Criminal Conviction for DUI on January 21, 2023)**

13 15. Respondent has subjected her Pharmacy Technician License to disciplinary action
14 under Code sections 490 and 4301, subdivision (l), in that on September 18, 2023, in a criminal
15 proceeding entitled *The People of the State of California v. Mary Albana Fatouh*, in San Diego
16 County Superior Court, Case Number CD298159, Respondent was convicted on her plea of guilty
17 of driving a vehicle while having a blood alcohol concentration (BAC) of 0.08 percent causing
18 bodily injury (Vehicle Code, § 23153, subdivision (b)), a misdemeanor. The Court dismissed the
19 enhanced allegation of driving with a BAC of .14 percent or more (Vehicle. Code, § 23578). The
20 court placed Respondent on summary probation for 60 months, with certain terms and conditions,
21 including a three-month First-Offender DUI Program, completion of 120 days in the County
22 Parole and Alternative Custody (CPAC) Program which required Respondent to wear GPS ankle
23 bracelet, and payment of various court fines in the amount of \$1,796.00.

24 16. The circumstances that led to the conviction are that on January 21, 2023, at
25 approximately 2:23 a.m., a California Highway Patrol officer was dispatched to assist with a
26 vehicle collision on the interstate 15 northbound in the city of San Diego. Upon arrival, the
27 officer observed Respondent standing next to her damaged vehicle. The officer contacted
28 Respondent, who admitted that she hit an object on the freeway causing her to veer to across all

1 lanes to the left and collide into another vehicle. The other vehicle then became disabled in
2 between the HOV lane and the freeway lane. The other driver stepped out of their vehicle and
3 was struck by a passing vehicle causing major injuries. During questioning, the officer could see
4 that Respondent had red watery eyes and could smell an odor of alcoholic beverage from her
5 breath and person, and she had an unsteady gait. Respondent attempted to perform field sobriety
6 tests, but was unable to do so successfully. Respondent was arrested for DUI, and at
7 approximately 5:03 a.m., a blood sample was obtained which revealed a BAC of .14 percent.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Alcohol-Related Criminal Conviction)**

10 17. Respondent has subjected her Pharmacy Technician License to disciplinary action
11 under Code section 4301, subdivision (k), for unprofessional conduct, in that on September 18,
12 2023, Respondent was convicted of an offense involving the consumption of alcoholic beverages,
13 as set forth above in paragraphs 15 and 16 above, incorporated herein by reference.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Dangerous Use of Alcohol on January 21, 2023)**

16 18. Respondent has subjected her Pharmacy Technician License to disciplinary action
17 under Code section 4301, subdivision (h), for unprofessional conduct, because she used alcohol in
18 a manner dangerous to herself and others by operating a vehicle while having a BAC of .14%, as
19 set forth above in paragraphs 15 and 16 above, incorporated herein by reference.

20 **OTHER MATTERS**

21 19. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Technician
22 License Number TCH 79154, issued to Mary Fatouh Albana, she shall be prohibited from serving
23 as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee
24 for five years if Pharmacy Technician License Number TCH 79154 is placed on probation or until
25 the Pharmacy Technician License Number TCH 79154 is reinstated if it is revoked.

26 ///

27 ///

28 ///

PRAYER

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

1. Revoking or suspending Pharmacy Technician License Number TCH 79154, issued to Mary Fatouh Albana;

2. Prohibiting Mary Fatouh Albana from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Technician License Number TCH 79154 is placed on probation or until the Pharmacy Technician License is reinstated, if it is revoked;

3. Ordering Mary Fatouh Albana to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and, if placed on probation, the costs of probation monitoring; and,

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

DATED: 10/10/2024

Sodergren, Digitally signed by
Sodergren, Anne@DCA
Anne@DCA Date: 2024.10.10
12:26:22 -07'00'

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

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