

1 BILL LOCKYER, Attorney General
of the State of California
2 SHERRY LEDAKIS, State Bar No. 131767
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2078
Facsimile: (619) 645-2061
7 E-mail: sherry.ledakis@doj.ca.gov

8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:
13 CHILDREN'S HOSPITAL AND HEALTH
CENTER PHARMACY
14 3020 Children's Way
San Diego, CA 92123

15 Original Permit Number HSP 37948

16 and

17 VICTORIA SERRANO MURPHY
18 PHARMACIST-IN-CHARGE
11458 Tree Hollow Lane
19 San Diego, CA 92128

20 Original Pharmacist License Number No. RPH
32467

21 Respondent.
22

Case No. 2407

OAH No. L-2001120485

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

23 IT IS HEREBY STIPULATED AND AGREED by and between the California
24 Board of Pharmacy and Respondent Victoria Serrano Murphy to the above-entitled proceedings
25 that the following matters are true:

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1 PARTIES

2 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
3 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
4 by Bill Lockyer, Attorney General of the State of California, by Sherry Ledakis, Deputy
5 Attorney General.

6 2. Respondent Victoria Serrano Murphy (respondent Murphy) is represented
7 in this proceeding by attorney Marilyn R. Moriarty, whose address is Lewis, D'Amato, Brisbois
8 & Bisgaard, 550 West C St., Ste. 800, San Diego, Ca. 92101.

9 3. On or about October 2, 1978, the Board of Pharmacy issued Original
10 Pharmacist License Number No. RPH 32467 to Victoria Serrano Murphy, (respondent). The
11 Original Pharmacist License was in full force and effect at all times relevant to the charges
12 brought in Accusation No. 99-19258 and will expire on July 31, 2002, unless renewed.

13 JURISDICTION

14 4. On November 26, 2001, Accusation No. 99-19258 was filed before the
15 Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against
16 respondent Murphy and Children's Hospital and Health Center Pharmacy. The Accusation and
17 all other statutorily required documents were properly served on respondent Murphy on
18 December 5, 2001. Respondent Murphy timely filed her Notice of Defense contesting the
19 Accusation. A copy of Accusation No. 99-19258 is attached as exhibit A and incorporated
20 herein by reference.

21 ADVISEMENT AND WAIVERS

22 5. Respondent Murphy has carefully read, fully discussed with counsel, and
23 understands the charges and allegations in Accusation No. 99-19258. Respondent Murphy has
24 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
25 Settlement and Disciplinary Order.

26 6. Respondent Murphy is fully aware of her legal rights in this matter,
27 including the right to a hearing on the charges and allegations in the Accusation; the right to be
28 represented by counsel at her own expense; the right to confront and cross-examine the witnesses

03/25/2002 03:19

DEPT OF JUSTICE

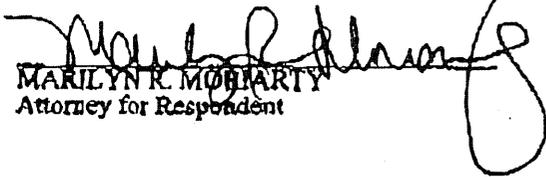
1 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
2 bound by the Decision and Order of the Board of Pharmacy.

3 DATED: 3/25/02

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5 
6 VICTORIA SERRANO MURPHY
7 Respondent

8 I concur in this Stipulated Settlement and Disciplinary Order.

9 DATED: 3/25/02

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11 
12 MARILYN R. MORIARTY
13 Attorney for Respondent

14 ENDORSEMENT

15 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
16 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

17
18 DATED: 4/8/02

19 BILL LOCKYER, Attorney General
20 of the State of California

21 
22 SHERRY LEDAKIS
23 Deputy Attorney General
24 Attorneys for Complainant

25 DOJ Docket Number: 03503110-SD2001AD0380
26 Stipulation 3/31/01
27
28

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

In the Matter of the Accusation Against:

CHILDREN'S HOSPITAL AND HEALTH
CENTER PHARMACY
3020 Children's Way
San Diego, CA 92123

Original Permit Number HSP 37948

and

VICTORIA SERRANO MURPHY
PHARMACIST-IN-CHARGE
11458 Tree Hollow Lane
San Diego, CA 92128

Original Pharmacist License Number RPH
32467

Respondent.

Case No. 2407

OAH No. L-2001120485

DECISION AND ORDER

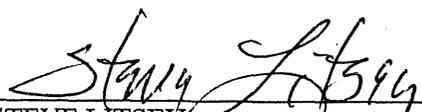
The attached Stipulated Settlement and Disciplinary Order as to Respondent Victoria Serrano Murphy is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 13, 2002.

It is so ORDERED May 14, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By:


STEVE LITSEY
Board President

1 BILL LOCKYER, Attorney General
of the State of California
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10 **BEFORE THE**
BOARD OF PHARMACY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 99-19258

13 CHILDREN'S HOSPITAL AND HEALTH
14 CENTER PHARMACY
3020 Children's Way
15 San Diego, CA 92123

A C C U S A T I O N

16 Original Permit Number No. HSP 37948

17 and

18 VICTORIA SERRANO MURPHY,
Pharmacist-In-Charge
19 11458 Tree Hollow Lane
San Diego, CA 92128

20 Original Pharmacist License Number No. RPH
21 32467

22 Respondents.
23

24 Complainant alleges:

25 PARTIES

26 1. Patricia F. Harris ("Complainant") brings this Accusation solely in her official
27 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

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2. Section 4081 of the Code provides:

"(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, medical device retailer, 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.

"(b) The owner, officer, and partner of any pharmacy, wholesaler, veterinary food-animal drug retailer, or medical device retailer shall be jointly responsible, with the pharmacist-in-charge or exemptee, for maintaining the records and inventory described in this section.

""

3. Section 4115(f) of the Code provides:

" . . ."

"(f) The performance of duties by a pharmacy technician shall be under the direct supervision and control of a pharmacist. The pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician. A pharmacy technician may perform the duties, as specified in subdivision (a), only under the immediate, personal supervision and control of a pharmacist. Any pharmacist responsible for a pharmacy technician shall be on the premises at all times, and the pharmacy technician shall be within the pharmacist's view. A pharmacist shall indicate verification of the prescription by initialing the prescription label before the medication is provided to the patient.

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4. Section 4301 of the Code provides:

The Board shall take action against any holder of a license who is guilty of unprofessional conduct Unprofessional conduct shall include, but is not limited to, any of the following:

" . . .

(j) The violation of any of the statutes of this 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 Chapter 9 (commencing with Section 4000) of the Business and Professions Code or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

" . . ."

C. This Accusation is also brought before the Board under the authority of the following sections of the California Code of Regulations ("Regulation").

1. Regulation 1714(d) provides:

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

2. Regulation 1718 states:

"Current Inventory" as used in Section 4232 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Section 4232.

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1 substances were found inside of his locker. The Inspectors met with the Pharmacist-In-
2 Charge, respondent Murphy.

3 C. Respondent Murphy informed the Inspectors that Shackelton was the
4 pharmacy technician responsible for ordering drugs for the in-patient pharmacy. He also
5 ordered drugs for the out-patient pharmacy and when they arrived he volunteered to
6 deliver the drugs to the out-patient pharmacy.

7 D. On September 14, 1999, Children's Pharmacy submitted a DEA Loss
8 Report to the Board of Pharmacy. This report set forth the following unaccounted for
9 losses:

10	Ketamine 100ml/5ml	562
	Meperedine 50mg/ml	44
11	Morphine 2mg/ml	77
	Percocet tablets	10
12	Anadrol 50 mg	880
	Acetaminophen & Codeine	1126
13	Halotestin 10mg	200
	Deca Durabolin 200mg/ml	12
14	Android 10	1210
	Xanax 2mg	5100
15	Klonopin 2mg	3502
	Diazepam 10mg	8933
16	Hydrocodone/APAP 10mg/650mg	1592
	Hydrocodone/APAP 10mg/500mg	1213
17	Hydrocodone/APAP 7.5/500	524
	Hydrocodone/APAP 7.5 mg/650mg	164
18	Hydrocodone/APAP 7.5 mg/750mg	7197
	Vicodin (generic)	41,993
19	Vicoprofen	174

20 E. The above listed drugs were missing from the Children's Pharmacy without
21 respondent Murphy's knowledge.

22 SECOND CAUSE FOR DISCIPLINE

23 (Failed to Maintain a Current Inventory of Dangerous Drugs)

24 7. Respondents Children's Hospital and Health Center and Victoria Serrano
25 Murphy are subject to disciplinary action under Business and Professions Code section 4081(a),
26 in that they failed to maintain records of the disposition of dangerous drugs or dangerous devices
27 at all times during business hours open to inspection by authorized officers of the law, as more
28 particularly alleged hereinafter.

1 Paragraphs 6A through and including paragraph 6E, above, are hereby
2 incorporated by reference and realleged as if fully set forth herein.

3 THIRD CAUSE FOR DISCIPLINE

4 (Respondents are Jointly Responsible for Failure to Maintain Pharmacy Security)

5 8. Respondents Children's Hospital and Health Center Pharmacy and respondent
6 Victoria Serrano Murphy are subject to disciplinary action under Business and Professions Code
7 section 4081(b), in that the owner, officer, and partner of any pharmacy, . . . shall be jointly
8 responsible, with the pharmacist-in-charge or exemptee, for maintaining the records and
9 inventory described in this section, as more particularly alleged hereinafter:

10 Paragraphs 6A through and including paragraph 6E, above, are hereby
11 incorporated by reference and realleged as if fully set forth herein.

12 FOURTH CAUSE FOR DISCIPLINE

13 (Failed to Maintain Direct Supervision of a Pharmacy Technician)

14 9. Respondents Children's Hospital and Health Center and Victoria Serrano
15 Murphy are subject to disciplinary action under Business and Professions Code section 4115(f),
16 in that they failed to maintain direct supervision of a pharmacy technician, as more particularly
17 alleged hereinafter.

18 Paragraphs 6A through and including paragraph 6E, above, are hereby
19 incorporated by reference and realleged as if fully set forth herein.

20 FIFTH CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct for Violation of Laws Regulating Dangerous Drugs)

22 10. Respondents Children's Hospital and Health Center and Victoria Serrano
23 Murphy are subject to disciplinary action under Business and Professions Code section 4301(j),
24 in that they committed unprofessional conduct by violating the statutes of this state or of the
25 United States regulating controlled substances and dangerous drugs, as more particularly alleged
26 hereinafter.

27 Paragraphs 6A through and including paragraph 6E, above, are hereby
28 incorporated by reference and realleged as if fully set forth herein.

1 NINTH CAUSE FOR DISCIPLINE

2 (Failed to Be Aware of Activities of Pharmacy Technician)

3 14. Respondents Children's Hospital and Health Center and Victoria Serrano
4 Murphy are subject to disciplinary action under Title 16 of the California Code of Regulations,
5 Regulation 1793.7, in that they failed to maintain direct supervision of a pharmacy technician in
6 that they were not fully aware of all his activities in the dispensing of medications, including the
7 maintenance of appropriate records, as more particularly alleged hereinafter:

8 Paragraphs 6A through and including paragraph 6E, above, are hereby
9 incorporated by reference and realleged as if fully set forth herein.

10 PRAYER

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

- 13 1. Revoking or suspending Original Permit Number HSP 37948, issued to
14 Children's Hospital and Health Center Pharmacy;
- 15 2. Revoking or suspending Original Pharmacist License Number RPH
16 32467, issued to Victoria Serrano Murphy, Pharmacist-in-Charge;
- 17 3. Ordering Children's Hospital and Health Center Pharmacy and Victoria
18 Serrano Murphy to pay the Board of Pharmacy the reasonable costs of the investigation and
19 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 20 4. Taking such other and further action as deemed necessary and proper.

21 DATED: 11/26/01

22
23
24 P. F. Harris
25 PATRICIA F. HARRIS
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant