

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

In the Matter of the Accusation/Petition to
Revoke Probation Against:

Case No. 3127

CRAIG MURRAY KANOUSE
3014 Evergreen
Visalia, CA 93277

Pharmacist License No. RPH 38910

Respondent.

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 on August 27, 2008.

It is so ORDERED July 28, 2008.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO, State Bar No. 131058
Deputy Attorney General
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7 Attorneys for Complainant

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

12 In the Matter of the Accusation/Petition to
13 Revoke Probation Against:

Case No. 3127

14 CRAIG MURRAY KANOUSE
3014 Evergreen
15 Visalia, CA 93277

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 Pharmacist License No. RPH 38910
17 Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of
22 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
23 by Edmund G. Brown Jr., Attorney General of the State of California, by Elena L. Almanzo,
24 Deputy Attorney General.

25 2. Craig Murray Kanouse (Respondent) is representing himself in this
26 proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On or about August 27, 1984, the Board of Pharmacy issued Pharmacist
28 License No. RPH 38910 to Craig Murray Kanouse (Respondent).

JURISDICTION

4. The Accusation/Petition to Revoke Probation in Case No. 3127 was filed

1 before the Board of Pharmacy (Board) , Department of Consumer Affairs, and is currently
2 pending against Respondent. The Accusation/Petition to Revoke Probation and all other
3 statutorily required documents were properly served on Respondent on February 28, 2008.
4 Respondent timely filed his Notice of Defense contesting the Accusation/Petition to Revoke
5 Probation. A copy of Accusation/Petition to Revoke Probation No. 3127 is attached as exhibit A
6 and incorporated herein by reference.

7 ADVISEMENT AND WAIVERS

8 5. Respondent has carefully read, and understands the charges and allegations
9 set forth in Accusation/Petition to Revoke Probation in Case No. 3127. Respondent also has
10 carefully read, and understands the effects of this Stipulated Surrender of License and Order.

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

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

20 CULPABILITY

21 8. Respondent admits the truth of each and every charge and allegation in the
22 Accusation/Petition to Revoke Probation in Case No. 3127, agrees that cause exists for
23 discipline and hereby surrenders his Pharmacist License No. RPH 38910 for the Board's formal
24 acceptance.

25 9. Respondent understands that by signing this stipulation he enables the
26 Board to issue an order accepting the surrender of his Pharmacist License without further
27 process.

28 //

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his 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 facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. 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 Pharmacist License No. RPH 38910, issued to Respondent Craig Murray Kanouse is surrendered and accepted by the Board of Pharmacy.

13. The surrender of Respondent's 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.

14. Respondent shall lose all rights and privileges as a pharmacist in California as of the effective date of the Board's Decision and Order.

15. Respondent shall cause to be delivered to the Board both his wall and pocket license certificate on or before the effective date of the Decision and Order.

16. Respondent fully understands and agrees that if he ever files an application

1 for licensure or a petition for reinstatement in the State of California, the Board shall treat it as an
2 application for a new license. Respondent must comply with all the laws, regulations and
3 procedures for a new license in effect at the time the application is filed, and all of the charges
4 and allegations contained in the Accusation/Petition to Revoke Probation in Case No. 3127 shall
5 be deemed to be true, correct and admitted by Respondent when the Board determines whether to
6 grant or deny the application.

7 17. Respondent shall not apply for licensure or petition for reinstatement for
8 three (3) years from the effective date of the Board of Pharmacy's Decision and Order.

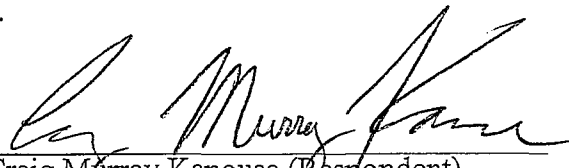
9 18. Should Respondent ever apply or reapply for a new license or certification,
10 or petition for reinstatement of a license, by any other health care licensing agency in the State of
11 California, all of the charges and allegations contained in the Accusation/Petition to Revoke
12 Probation, Case No. 3127 shall be deemed to be true, correct, and admitted by Respondent for
13 the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict
14 licensure.

15 19. Respondent shall pay the Board its costs of investigation and enforcement
16 in the amount of \$3,364.00 prior to issuance of a new license.

17
18 ACCEPTANCE

19 I have carefully read the Stipulated Surrender of License and Order. I understand
20 the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated
21 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
22 by the Decision and Order of the Board of Pharmacy.

23 DATED: 5-9-08

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26 Craig Murray Kanouse (Respondent)
27 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 15, 2008

EDMUND G. BROWN JR., Attorney General
of the State of California

ARTHUR D. TAGGART
Supervising Deputy Attorney General



ELENA L. ALMANZO
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SA2007102611
30434495.wpd

Exhibit A

Accusation/Petition to Revoke Probation No. 3127

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO, State Bar No. 131058
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6 Facsimile: (916) 324-5567

7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation/Petition to
Revoke Probation Against:

Case No. 3127

13 CRAIG MURRAY KANOUSE
3014 Evergreen
14 Visalia, CA 93277

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

15 Pharmacist License No RPH 38910

16
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about August 27, 1984, the Board of Pharmacy issued Pharmacy
22 Number RPH 38910 to Craig Murray Kanouse (Respondent). Said license will expire September
23 30, 2009, unless renewed.

24 JURISDICTION

- 25 3. This Accusation is brought before the Board of Pharmacy (Board),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.

28 ///

1 4. Section 4300 of the Code states:

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

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

6 “(1) Suspending judgment.

7 “(2) Placing him or her upon probation.

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

9 “(4) Revoking his or her license.

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

12 “(c) The board may refuse a license to any applicant guilty of unprofessional
13 conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a
14 license who is guilty of unprofessional conduct and who has met all other requirements for
15 licensure. The board may issue the license subject to any terms or conditions not contrary to
16 public policy, including, but not limited to, the following:

17 “(1) Medical or psychiatric evaluation.

18 “(2) Continuing medical or psychiatric treatment.

19 “(3) Restriction of type or circumstances of practice.

20 “(4) Continuing participation in a board-approved rehabilitation program.

21 “(5) Abstention from the use of alcohol or drugs.

22 “(6) Random fluid testing for alcohol or drugs.

23 “(7) Compliance with laws and regulations governing the practice of pharmacy.

24 “(d) The board may initiate disciplinary proceedings to revoke or suspend any
25 probationary certificate of licensure for any violation of the terms and conditions of probation.
26 Upon satisfactory completion of probation, the board shall convert the probationary certificate to
27 a regular certificate, free of conditions.

28 ///

1 “(e) The proceedings under this article shall be conducted in accordance with
2 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code,
3 and the board shall have all the powers granted therein. The action shall be final, except that the
4 propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the
5 Code of Civil Procedure.”

6 5. Section 4301 of the Code states in pertinent part:

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

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

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

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

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

25 6. Section 4022 of the Code states

26 “Dangerous drug” or “dangerous device” means any drug or device unsafe for
27 self-use in humans or animals, and includes the following:

28 ///

1 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
2 without prescription," "Rx only," or words of similar import.

3 (b) Any device that bears the statement: "Caution: federal law restricts this
4 device to sale by or on the order of a _____," "Rx only," or words of similar import, the
5 blank to be filled in with the designation of the practitioner licensed to use or order use of the
6 device.

7 (c) Any other drug or device that by federal or state law can be lawfully
8 dispensed only on prescription or furnished pursuant to Section 4006."

9 7. Section 4060 of the Code states:

10 "No person shall possess any controlled substance, except that furnished to a
11 person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
12 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a
13 certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section
14 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to
15 Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
16 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall
17 not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
18 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
19 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
20 labeled with the name and address of the supplier or producer.

21 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,
22 a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs
23 and devices."

24 8. Health and Safety Code section 11170 provides as follows:

25 "No person shall prescribe, administer, or furnish a controlled substance for
26 himself."

27 ///

28 ///

1 9. Health and Safety Code section 11173 subd. (a) provides as follows:

2 “No person shall obtain or attempt to obtain controlled substances, or procure or
3 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
4 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”

5 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
6 request the administrative law judge to direct a licentiate found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 11. "Codeine" with acetaminophen is a Schedule II controlled substance as
10 designated by Health and Safety Code section 11056(e)(2).

11 12. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate with
12 acetaminophen also known as dihydrocodeinone, a Schedule III controlled substance as designated
13 by Health and Safety Code section 11056(e)(4), and 500 mg. acetaminophen per tablet.

14 13. "Norco" is a compound consisting of 10 mg. hydrocodone bitartrate with
15 acetaminophen also known as dihydrocodeinone, a Schedule III controlled substance as designated
16 by Health and Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet.

17 14. “Methadone” is a schedule II controlled substance as defined in Health and
18 Safety Code section 11055(c)(14).

19 15. "Xanax," a brand of alprazolam, is a Schedule IV controlled substance as
20 defined in Health and Safety Code section 11057(d)(1).

21 16. On or about June 15, 2007, staff at Wasco Prison discovered that the
22 narcotic cabinet in the pharmacy was unlocked. An inventory was performed and the following
23 shortages were discovered:

24	DRUG	SCHEDULE	SHORTAGE
25	Codeine with acetaminophen	Schedule III	59
26	Hydrocodone/acetaminophen 5 mg	Schedule III	91
27	Methadone 5mg	Schedule II	14
28	Hydrocodone/acetaminophen 10mg	Schedule III	10

1 Hydrocodone/acetaminophen 7.5mg Schedule III 78

2 Xanax Schedule III 5

3 17. On or about June 18, 2007, Respondent confessed to Wasco prison
4 personnel that he had taken the missing narcotics.

5 FIRST CAUSE FOR DISCIPLINE

6 (Dishonesty/Fraud)

7 18. Respondent is subject to disciplinary action under section 4301 (f) and
8 Health and Safety Code section 11173 for unprofessional conduct in that respondent engaged in
9 acts of dishonesty and fraud in that he stole controlled substances as set forth in paragraph 19.

10 19. From approximately May 2007 to June of 2007, while employed as a
11 pharmacist at Wasco Prison, respondent stole approximately 257 tablets of the following
12 controlled substances: hydrocodone containing schedule III controlled substances, codeine-
13 containing schedule III controlled substances, methandone-containing schedule II controlled
14 substances, and alprazolam-containing schedule IV substances.

15 SECOND CAUSE FOR DISCIPLINE

16 (Possession)

17 20. Respondent is subject to disciplinary action under Code section 4301 (j)
18 and (o) in conjunction with Code section 4060 and Health and Safety Code section 11350, subd.
19 (a) and 11377 subd. (a) in that he illegally possessed controlled substances, as set forth in
20 paragraph 21.

21 21. From approximately May 2007 to June of 2007, while employed as a
22 pharmacist at Wasco Prison, respondent stole approximately 257 tablets of the following
23 controlled substances: hydrocodone containing schedule II controlled substances, codeine-
24 containing schedule III controlled substances, methandone-containing schedule II controlled
25 substances, and alprazolam-containing schedule IV substances.

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THIRD CAUSE FOR DISCIPLINE

(Self-Administering Controlled Substances)

22. Respondent is subject to disciplinary action under Code section 4301 subd. (h) and Health and Safety Code section 11170 in that he self-administered medications, as set forth in paragraph 23.

23. On or about June 18, 2007, respondent admitted to Board Inspector Rick Iknoian that he had stolen and self-administered various controlled substances including those containing hydrocodone and methadone. Respondent admitted that he had been self-administering the stolen drugs for "the past month or so."

PETITION TO REVOKE PROBATION

24. Complainant realleges and incorporates herein by reference as if fully set forth the allegations contained in paragraphs 1 through 23 of the Accusation.

25. Condition 14 provides in pertinent part that if Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed.

26. Grounds exist to revoke Respondent's probation and reimpose the order of revocation of his pharmacist certificate in that respondent violated the terms and conditions of his probation as follows:

FIRST CAUSE TO REVOKE PROBATION

(Obey all Laws)

27. Condition 1 of Respondent's probation states, in pertinent part, that Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

28. Respondent's probation is subject to revocation as follows;

a. Respondent failed to obey all state and federal laws and regulations substantially related to practice of pharmacy, as set forth more fully in paragraphs 18, 19, 20, 21, 22 and 23, above.

///

1 SECOND CAUSE TO REVOKE PROBATION

2 (Failure to Successfully complete the Pharmacists Recovery Program)

3 29. Condition 16 states in pertinent part that Respondent shall contact the
4 Pharmacists Recovery Program (PRP) for evaluation and shall successfully participate in and
5 complete the treatment contract and any subsequent addendums as recommended and provided
6 by the PRP and as approved by the Board.

7 30. Respondent's probation is subject to revocation in that he failed to
8 successfully participate and complete the PRP. On June 21, 2007, respondent was terminated
9 from the PRP as a Public Risk. Respondent's termination was based upon the following:

10 a. Respondent had 3 relapses since his enrollment in the Diversion program on May 30,
11 2001. Respondent's first relapse occurred on October 15, 2001. He relapsed by injecting
12 Morphine and pharmaceutical Cocaine (speedballs) for a period of 11 consecutive days.
13 Respondent obtained the narcotics from his work site. Respondent's second relapse
14 occurred on July 6, 2004 when he admitted he had been drinking alcohol. Respondent
15 admitted to drinking seven beers a night three to four days a week for approximately two
16 months. Respondent's third relapse occurred in May and June of 2007, when respondent
17 admitted to taking and using Vicodin, Tylenol #3 and Methadone from Wasco prison.

18 b. Respondent has attended unsuccessfully at least six Chemical Treatment programs
19 including two in-patient treatment programs.

20 c. Respondent was non-compliant with biological fluid testing in that respondent was
21 mandated to have his tests observed but did not have observed tests on at least two
22 occasions. Additionally, Respondent had a total of nine invalid tests on 12/15/05,
23 3/18/06, 4/5/06, 4/14/06, 5/09/06, 9/29/06, 10/11/06, 11/28/06, and 1/2/07.

24 THIRD CAUSE TO REVOKE PROBATION

25 (Failure to Abstain from Illegal use of Controlled Substances and Dangerous Drugs)

26 31. Condition 18 states in pertinent part that Respondent shall completely
27 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
28 associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner
as part of a documented medical treatment.

32. Respondent's probation is subject to revocation in that he failed to abstain
from the use of controlled substances as set forth more specifically above in paragraphs 18, 19,
20, 21, 22 and 23 of the Accusation.

///

1 DISCIPLINE CONSIDERATIONS

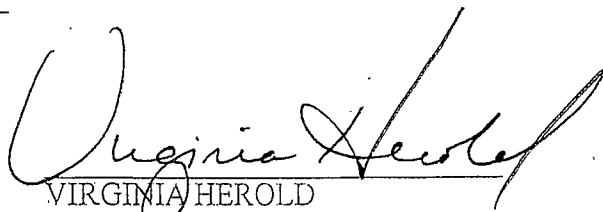
2 33. To determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges that on or about July 19, 2005, in a prior disciplinary action entitled In the
4 Matter of the Accusation Against: Craig Murray Kanouse, before the Board of Pharmacy, in Case
5 Number 2546. Respondent's license was revoked; however the revocation was stayed, and
6 respondent was placed on probation for a period of six years. A copy of the Board's decision is
7 attached as Exhibit A. That decision is now final and is incorporated by reference as if fully set
8 forth.

9 PRAYER

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

- 12 1. Revoking or suspending pharmacist Number RPH 38910, issued to Craig
13 Murray Kanouse.
- 14 2. Ordering to pay the Board of Pharmacy the reasonable costs of the
15 investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: 2/15/08

20
21 

22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

EXHIBIT A

1 BILL LOCKYER, Attorney General
of the State of California
2 RONALD L. DIEDRICH, State Bar No. 95146
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
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5 Telephone: (916) 324-5333
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7 Attorneys for Complainant

8
9
10 **BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2546

13 **CRAIG MURRAY KANOUSE**
3014 Evergreen
14 Visalia, California 93277

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

15 Original Pharmacist License Number RPH 38910

16 Respondent.

17
18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Patricia F. Harris ("Complainant") is the Executive Officer of the Board of
23 Pharmacy ("Board"). She brought this action solely in her official capacity and is represented in
24 this matter by Bill Lockyer, Attorney General of the State of California, by Ronald L. Diedrich,
25 Deputy Attorney General.

26 2. Craig Murray Kanouse ("Respondent") is representing himself in this
27 proceeding and has knowingly and voluntarily chosen not to exercise his right to be represented
28 by counsel.

CRAIG MURRAY KANOUSE
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER, CASE NO. 2546

AMERICAN
COURT REPORTERS
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1 Order below.

2 CONTINGENCY

3 10. This stipulation shall be subject to approval by the Board of Pharmacy.
4 Respondent understands and agrees that counsel for Complainant and the staff of the Board may
5 communicate directly with the Board regarding this stipulation and settlement, without notice to
6 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
7 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the
8 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
9 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
10 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board
11 shall not be disqualified from further action by having considered this matter.

12 11. The parties understand and agree that facsimile copies of this Stipulated
13 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
14 force and effect as the originals.

15 12. In consideration of the foregoing admissions and stipulations, the parties
16 agree that the Board may, without further notice or formal proceeding, issue and enter the
17 following Disciplinary Order:

18 DISCIPLINARY ORDER

19 IT IS HEREBY ORDERED that Original Pharmacist License number RPH 38910
20 issued to Respondent Craig Murray Kanouse is revoked. However, the revocation is stayed and
21 Respondent is placed on probation for six (6) years on the following terms and conditions.

22 1. Obey All Laws. Respondent shall obey all state and federal laws and
23 regulations substantially related to or governing the practice of pharmacy.

24 Respondent shall report any of the following occurrences to the Board, in writing,
25 within 72 hours of such occurrence:

- 26 • an arrest or issuance of a criminal complaint for violation of any provision of the
27 Pharmacy Law, state and federal food and drug laws, or state and federal
28 controlled substances laws

- 1 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
- 2 any criminal complaint, information or indictment
- 3 • a conviction of any crime
- 4 • discipline, citation, or other administrative action filed by any state and federal
- 5 agency which involves Respondent's license or which is related to the practice
- 6 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
- 7 or charging for any drug, device or controlled substance.

8 2. **Reporting to the Board.** Respondent shall report to the Board
9 quarterly. The report shall be made either in person or in writing, as directed. Respondent
10 shall state under penalty of perjury whether there has been compliance with all the terms and
11 conditions of probation. If the final probation report is not made as directed, probation shall
12 be extended automatically until such time as the final report is made and accepted by the
13 Board.

14 3. **Interview with the Board.** Upon receipt of reasonable notice,
15 Respondent shall appear in person for interviews with the Board upon request at various
16 intervals at a location to be determined by the Board. Failure to appear for a scheduled
17 interview without prior notification to Board staff shall be considered a violation of probation.

18 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
19 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
20 compliance with the terms and conditions of his probation. Failure to comply shall be
21 considered a violation of probation.

22 5. **Continuing Education.** Respondent shall provide evidence of efforts
23 to maintain skill and knowledge as a pharmacist as directed by the Board.

24 6. **Notice to Employers.** Respondent shall notify all present and
25 prospective employers of the decision in case number 2546 and the terms, conditions and
26 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
27 this decision, and within 15 days of Respondent undertaking new employment, Respondent
28 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in

1 writing acknowledging the employer has read the decision in case number 2546.

2 If Respondent works for or is employed by or through a pharmacy employment
3 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
4 every pharmacy of the and terms conditions of the decision in case number 2546 in advance of
5 the Respondent commencing work at each pharmacy.

6 "Employment" within the meaning of this provision shall include any full-time,
7 part-time, temporary, relief or pharmacy management service as a pharmacist, whether the
8 Respondent is considered an employee or independent contractor.

9 **7. No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
10 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
11 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
12 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
13 order.

14 **8. Reimbursement of Board Costs.** Respondent shall pay to the Board
15 its costs of investigation and prosecution in the amount of \$6,000.00. Respondent shall make
16 said payments as follows: quarterly payments of \$500.00 over the first 3 years of probation.
17 Failure to make a timely payment shall be considered a violation of probation.

18 The filing of bankruptcy by Respondent shall not relieve Respondent of his
19 responsibility to reimburse the Board its costs of investigation and prosecution.

20 **9. Probation Monitoring Costs.** Respondent shall pay the costs
21 associated with probation monitoring as determined by the Board each and every year of
22 probation. Such costs shall be payable to the Board at the end of each year of probation.
23 Failure to pay such costs shall be considered a violation of probation.

24 **10. Status of License.** Respondent shall, at all times while on probation,
25 maintain an active current license with the Board, including any period during which
26 suspension or probation is tolled.

27 If Respondent's license expires or is cancelled by operation of law or otherwise,
28 upon renewal or reapplication, Respondent's license shall be subject to all terms and

1 conditions of this probation not previously satisfied.

2 11. **License Surrender while on Probation/Suspension.** Following the
3 effective date of this decision, should Respondent cease practice due to retirement or health, or
4 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
5 his license to the Board for surrender. The Board shall have the discretion whether to grant
6 the request for surrender or take any other action it deems appropriate and reasonable. Upon
7 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
8 terms and conditions of probation.

9 Upon acceptance of the surrender, Respondent shall relinquish his pocket
10 license to the Board within 10 days of notification by the Board that the surrender is accepted.
11 Respondent may not reapply for any license from the Board for three years from the effective
12 date of the surrender. Respondent shall meet all requirements applicable to the license sought
13 as of the date the application for that license is submitted to the Board.

14 12. **Notification of Employment/Mailing Address Change.** Respondent
15 shall notify the Board in writing within 10 days of any change of employment. Said
16 notification shall include the reasons for leaving and/or the address of the new employer,
17 supervisor or owner and work schedule if known. Respondent shall notify the Board in
18 writing within 10 days of a change in name, mailing address or phone number.

19 13. **Tolling of Probation.** Respondent shall work at least 40 hours in each
20 calendar month as a pharmacist and at least an average of 80 hours per month in any six
21 consecutive months. Failure to do so will be a violation of probation. If Respondent has not
22 complied with this condition during the probationary term, and Respondent has presented
23 sufficient documentation of his good faith efforts to comply with this condition, and if no
24 other conditions have been violated, the Board, in its discretion, may grant an extension of
25 Respondent's probation period up to one year without further hearing in order to comply with
26 this condition.

27 14. **Violation of Probation.** If Respondent violates probation in any
28 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke

1 probation and carry out the disciplinary order which was stayed. If a petition to revoke
2 probation or an accusation is filed against Respondent during probation, the Board shall have
3 continuing jurisdiction and the period of probation shall be extended, until the petition to
4 revoke probation or accusation is heard and decided.

5 If Respondent has not complied with any term or condition of probation, the
6 Board shall have continuing jurisdiction over Respondent, and probation shall automatically
7 be extended until all terms and conditions have been satisfied or the Board has taken other
8 action as deemed appropriate to treat the failure to comply as a violation of probation, to
9 terminate probation, and to impose the penalty which was stayed.

10 **15. Completion of Probation.** Upon successful completion of probation,
11 Respondent's license will be fully restored.

12 **16. Rehabilitation Program - Pharmacists Recovery Program (PRP).**
13 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
14 Recovery Program for evaluation and shall successfully participate in and complete the
15 treatment contract and any subsequent addendums as recommended and provided by the PRP
16 and as approved by the Board. The costs for PRP participation shall be borne by the
17 Respondent.

18 If Respondent is currently enrolled in the PRP, said participation is now
19 mandatory and is no longer considered a self-referral under Business and Professions Code
20 section 4363, as of the effective date of this decision. Respondent shall successfully
21 participate in and complete his current contract and any subsequent addendums with the PRP.
22 Probation shall be automatically extended until Respondent successfully completes his
23 treatment contract. Any person terminated from the program shall be automatically suspended
24 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified
25 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate
26 probation for any violation of this term.

27 **17. Random Drug Screening.** Respondent, at his own expense, shall
28 participate in random testing, including but not limited to biological fluid testing (urine,

1 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
2 The length of time shall be for the entire probation period and the frequency of testing will be
3 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
4 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
5 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
6 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
7 in the immediate suspension of practice by Respondent. Respondent may not resume the
8 practice of pharmacy until notified by the Board in writing.

9 18. **Abstain from Drugs and Alcohol Use.** Respondent shall completely
10 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
11 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
12 practitioner as part of a documented medical treatment. Upon request of the Board,
13 Respondent shall provide documentation from the licensed practitioner that the prescription
14 was legitimately issued and is a necessary part of the treatment of the Respondent.

15 19. **Supervised Practice.** Respondent shall practice only under the
16 supervision of a pharmacist not on probation with the Board. Respondent shall not practice
17 until the supervisor is approved by the Board. The supervision shall be, as required by the
18 Board, either:

19 Continuous - 75% to 100% of a work week.

20 Substantial - At least 50% of a work week.

21 Partial - At least 25% of a work week.

22 Daily Review - Supervisor's review of probationer's daily activities within 24
23 hours.

24 Within 30 days of the effective date of this decision, Respondent shall have his supervisor
25 submit notification to the Board in writing stating the supervisor has read the decision in case
26 number 2546 and is familiar with the level of supervision as determined by the Board.

27 If Respondent changes employment, Respondent shall have his new supervisor,
28 within 15 days after employment commences, submit notification to the Board in writing

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

In the Matter of the Accusation Against:

Case No. 2546

CRAIG MURRAY KANOUSE
3014 Evergreen
Visalia, California 93277

Original Pharmacist License Number RPH 38910

Respondent.

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 on December 12, 2002.

It is so ORDERED on November 12, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By: _____


JOHN D. JONES
Board President

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8

9

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

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13 In the Matter of the Accusation Against:

Case No. 2546

14 CRAIG MURRAY KANOUSE
4836 W. Douglas Avenue, # 206
15 Visalia, CA 93291

ACCUSATION

16 Pharmacist License Number RPH 38910

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Respondent.

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Complainant alleges:

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PARTIES

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

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2. On or about August 27, 1984, the Board issued Original Pharmacist License Number RPH 38910 to Craig Murray Kanouse ("Respondent"). Respondent's pharmacist license was in full force and effect at all times relevant to the charges brought herein, and will expire on September 30, 2003, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following Business and Professions Code ("Code") sections:

a. Code section 4300, subdivision (a), provides that "[E]very license issued [by the Board] may be suspended or revoked [by the Board]."

c. Code section 4301 provides in pertinent part that "[T]he Board shall take action against any holder of a license who is guilty of unprofessional conduct"

STATUTORY PROVISIONS

4. Code section 4301, provides, in relevant part, that unprofessional conduct shall include, but not be limited to, the following:

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

(h) The administering to oneself, of any controlled substance, or ...

(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 terms of this chapter or of the applicable federal and state laws governing pharmacy, including regulations established by the board.

5. Code section 4060, provides in pertinent part that,

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. . . .

6. Code section 4327 provides that "[A]ny person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

7. Health and Safety Code section 11170 provides that "[N]o person shall prescribe, administer, or furnish a controlled substance for himself."

1 8. Health and Safety Code section 11350, subdivision (a), provides that:

2 Except as otherwise provided in this division, every person who
3 possess (1) any controlled substance specified in subdivision (b) or
4 (c), or paragraph (1) of subdivision (f) of Section 11054, specified
5 in paragraph (14), (15), or (20) of subdivision (d) of Section
6 11054, or specified in subdivision (b) or (c) of Section 11055, or
7 specified in subdivision (h) of Section 11056, or (2) any controlled
8 substance classified in Schedule III, IV, or V which is a narcotic
9 drug, unless upon the written prescription of a physician, dentist,
10 podiatrist, or veterinarian licensed to practice in this state, shall be
11 punished by imprisonment in the state prison.

8 (Cost Recovery)

9 9. Code section 125.3 provides, in pertinent part, that the Board may request
10 the administrative law judge to direct a licensee found to have committed a violation or
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
12 and enforcement of the case.

13 FIRST CAUSE FOR DISCIPLINE

14 (Corrupt Acts - Morphine)

15 10. Respondent is subject to disciplinary action under Code section 4301,
16 subdivision (f), in that Respondent committed an act involving moral turpitude, dishonesty,
17 fraud, deceit, or corruption.

18 11. From in or about October, 2000, to April 19, 2001, on multiple occasions,
19 the exact dates of which are unknown, Respondent unlawfully, dishonestly and/or fraudulently
20 appropriated morphine from his employer, while employed as a licensed pharmacist at the
21 Kaweah Delta Health Care District Hospital Pharmacy ("Kaweah"), which is located in Visalia,
22 California.

23 SECOND CAUSE FOR DISCIPLINE

24 (Corrupt Acts - Dilaudid & Cocaine)

25 12. Respondent is also subject to disciplinary action under Code section 4301,
26 subdivision (f), in that Respondent committed an act involving moral turpitude, dishonesty,
27 fraud, deceit, or corruption.

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1 19. On or about April 19, 2001, Respondent was in possession of cocaine, a
2 Schedule II controlled substance, as specified in subdivision (b) of Health and Safety Code
3 section 11055, without a prescription for that controlled substance, in violation of Code section
4 4060 and/or Health and Safety Code section 11350, subdivision (a).

5 SIXTH CAUSE FOR DISCIPLINE

6 (Self-Administration of a Controlled Substances - Morphine)

7 20. Respondent is also subject to disciplinary action under Code section 4301,
8 subdivision (j), in that Respondent violated the statutes of this state regulating controlled
9 substances and dangerous drugs.

10 21. From in or about October, 2000, to April 19, 2001, on multiple occasions,
11 the exact dates of which are unknown, Respondent administered or furnished to himself
12 morphine, a Schedule II controlled substance, as specified in subdivision (b) of Health and Safety
13 Code section 11055, in violation of Health and Safety Code section 11170.

14 SEVENTH CAUSE FOR DISCIPLINE

15 (Self-Administration of a Controlled Substances - Morphine)

16 22. Respondent is also subject to disciplinary action under Code section 4301,
17 subdivision (h), in that Respondent administered to himself a controlled substance.

18 23. From in or about October, 2000, to April 19, 2001, on multiple occasions,
19 the exact dates of which are unknown, Respondent administered to himself morphine, a Schedule
20 II controlled substance, as specified in subdivision (b) of Health and Safety Code section 11055..

21 EIGHTH CAUSE FOR DISCIPLINE

22 (Working as a Pharmacist While Under the Influence)

23 24. Respondent is also subject to disciplinary action under Code section 4301,
24 subdivision (o), in that Respondent violated or attempted to violate, directly or indirectly, a
25 provision or terms of this chapter or of the applicable federal and state laws governing pharmacy,
26 including regulations established by the board.

27 25. On or about April 22, 2001, Respondent, while on duty as a licensed
28 pharmacist at Kaweah, sold, dispensed or compounded drugs while under the influence of

1 opiates, which are dangerous drugs as defined by Code section 4022, in violation of Code section
2 4327.

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5 PRAYER

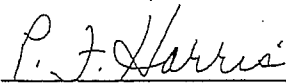
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

8 1. Revoking or suspending Pharmacist License Number RPH 38910 issued
9 to Craig Murray Kanouse;

10 2. Ordering Craig Murray Kanouse to pay the Board of Pharmacy the
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 125.3; and,

13 3. Taking such other and further action as deemed necessary and proper.

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15 DATED: 7/31/02

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19 PATRICIA F. HARRIS
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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27 C:\Dat\Licensing\Pharmacy Board\Craig Kanouse\Accusation.wpd