

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

In the Matter of the Accusation Against:

Case No.3374

**KRIS MURAOKA**  
24092 Ironhead Lane  
Laguna Niguel, CA 92677

Pharmacist License No. RPH 38703

Respondent.

**DECISION AND ORDER**

The attached Stipulated Revocation 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 April 21, 2010.

It is so ORDERED on March 22, 2010.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By *Kenneth H. Schell*  
KENNETH H. SCHELL  
Board President

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3374

12 KRIS CARIN MURAOKA  
13 24092 Ironhead Lane  
14 Laguna Niguel, CA 92677

**STIPULATED REVOCATION OF  
LICENSE AND ORDER**

15 Pharmacist License No. RPH 38703

16 Respondent.

17  
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 Pharmacy  
22 (Board). She brought this action solely in her official capacity and is represented in this matter by  
23 Edmund G. Brown Jr., Attorney General of the State of California, by Antoinette B. Cincotta,  
24 Deputy Attorney General.

25 2. Kris Carin Muraoka (Respondent) is representing herself in this proceeding and has  
26 chosen not to exercise her right to be represented by counsel.

27 3. On or about August 15, 1984, the Board of Pharmacy issued Pharmacist License No.  
28 RPH 38703 to Kris Carin Muraoka (Respondent). The Pharmacist License was in full force and

1 effect at all times relevant to the charges brought in Accusation No. 3374 and will expire on July  
2 31, 2010, unless renewed.

3 JURISDICTION

4 4. Accusation No. 3374 was filed before the Board, and is currently pending against  
5 Respondent. The Accusation and all other statutorily required documents were properly served  
6 on Respondent on September 29, 2009. Respondent timely filed her Notice of Defense contesting  
7 the Accusation. A copy of Accusation No. 3374 is attached as Exhibit A and incorporated herein  
8 by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in  
11 Accusation No. 3374. Respondent also has carefully read, and understands the effects of this  
12 Stipulated Revocation of License and Order.

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

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

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation  
24 No. 3374, agrees that cause exists for discipline and hereby stipulates to the revocation of her  
25 Pharmacist License No. RPH 38703 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation she enables the Board to issue  
27 an order accepting the stipulated revocation of her Pharmacist License without further process.

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ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 38703, issued to Respondent Kris Carin Muraoka is revoked.

1. The revocation of Respondent's Pharmacist License by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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

3. Respondent shall cause to be delivered to the Board both her wall license certificate and, if one was issued, pocket license on or before the effective date of the Decision and Order.

4. If Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 3374 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 3374 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6. Respondent shall pay the Board its costs of investigation and enforcement in the amount of \$3,606.50 prior to issuance of a new or reinstated license.

7. Respondent may not apply, reapply, or petition for any licensure or registration of the Board for three (3) years from the effective date of the Decision and Order.

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ACCEPTANCE

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

DATED: 10-22-09

*Kris Carin Muraoka*

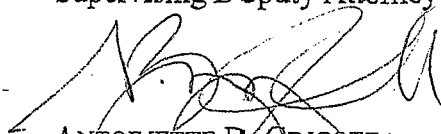
KRIS CARIN MURAOKA  
Respondent

ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: October 14, 2009

Respectfully submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

  
ANTOINETTE B. CINCOTTA  
Deputy Attorney General  
*Attorneys for Complainant*

SD2009804247

**Exhibit A**

**Accusation No. 3374**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 ANTOINETTE B. CINCOTTA  
Deputy Attorney General  
4 State Bar No. 120482  
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San Diego, CA 92186-5266  
7 Telephone: (619) 645-2095  
Facsimile: (619) 645-2061  
8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:  
  
13 KRIS CARIN MURAOKA  
24092 Ironhead Lane  
14 Laguna Niguel, CA 92677  
  
15 Pharmacist License No. RPH 38703  
  
16 Respondent.

Case No. 3374  
**ACCUSATION**

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
22 2. On or about August 15, 1984, the Board of Pharmacy issued Pharmacist License  
23 Number RPH 38703 to Kris Carin Muraoka (Respondent). The Pharmacist License was in full  
24 force and effect at all times relevant to the charges brought herein and will expire on July 31,  
25 2010, unless renewed.

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1 JURISDICTION

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

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be  
6 suspended or revoked."

7 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
8 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
9 disciplinary action during the period within which the license may be renewed, restored, reissued  
10 or reinstated.

11 STATUTORY PROVISIONS

12 6. Section 4301 of the Code states:

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

17 . . . .

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

21 . . . .

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

27 . . . .

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

. . . .

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

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7. Section 4022 of the Code states

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

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

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

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

8. Section 4059 of the Code states, in pertinent part, that a person may not furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

9. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, 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, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

10. Health and Safety Code section 11170 provides:

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

11. Health and Safety Code section 11173, subdivision (a) provides:

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

1 REGULATORY PROVISIONS

2 12. California Code of Regulations, title 16, section 1769 states:

3  
4 (b) When considering the suspension or revocation of a facility or a personal  
5 license on the ground that the licensee or the registrant has been convicted of a crime,  
6 the board, in evaluating the rehabilitation of such person and his present eligibility for  
7 a license will consider the following criteria:

8 (1) Nature and severity of the act(s) or offense(s).

9 (2) Total criminal record.

10 (3) The time that has elapsed since commission of the act(s) or offense(s).

11 (4) Whether the licensee has complied with all terms of parole, probation,  
12 restitution or any other sanctions lawfully imposed against the licensee.

13 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

15 For the purpose of denial, suspension, or revocation of a personal or facility  
16 license pursuant to Division 1.5 (commencing with Section 475) of the Business and  
17 Professions Code, a crime or act shall be considered substantially related to the  
18 qualifications, functions or duties of a licensee or registrant if to a substantial degree  
19 it evidences present or potential unfitness of a licensee or registrant to perform the  
20 functions authorized by his license or registration in a manner consistent with the  
21 public health, safety, or welfare.

22 COST RECOVERY

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

27 DRUG

28 15. Fiorinal, a brand name for generic butalbital, acetaminophen, and caffeine, is a  
Schedule III controlled substance as designated by Health and Safety Code section 11057,  
subdivision (d)(2), and is a dangerous drug pursuant to Business and Professions Code section  
4022.

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FACTS

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2 16. At all times referenced herein, Respondent was employed as a per diem pharmacist at  
3 a Kaiser Permanente (Kaiser) pharmacy located in Gardena from April 1, 1997, until she resigned  
4 on November 18, 2008.

5 17. On or about July 24, 2008, the Audit and Compliance Data Mining staff for Kaiser  
6 conducted a routine, biannual variance check for generic Fiorinal. The amount of Fiorinal  
7 ordered and received by the Gardena pharmacy was compared to the amount of prescriptions  
8 dispensed plus the stock on hand. A variance of 33.73% was discovered. The data determined  
9 that since January 2008, the pharmacy had filled eleven prescriptions for a total quantity of 565  
10 tablets. In the same period the pharmacy received 1600 tablets to fill prescriptions.

11 18. As a result of the findings, on or about August 19, 2008, the Pharmacist in Charge  
12 (PIC) of the Kaiser pharmacy conducted an internal audit and confirmed the variance in the  
13 inventory of generic Fiorinal tablets. The PIC started a daily inventory of all additions  
14 (ordered/returned to stock), or subtractions (filled prescriptions) of the medication. After a couple  
15 of weeks, there continued to be an unaccounted variance in the inventory.

16 19. A review of existing video surveillance tentatively identified Respondent as a person  
17 who accessed the pharmacy drawer where the generic Fiorinal was stored, however, there was  
18 insufficient evidence to confirm she was responsible for the theft. Two covert cameras were  
19 installed directly above and to the side of the drawer containing the generic Fiorinal. On or about  
20 October 9, 2008, the covert cameras documented Respondent's theft of 14 tablets of generic  
21 Fiorinal. Two additional thefts were recorded on October 15, 2008, wherein Respondent stole  
22 four tablets, then 100 tablets.

23 20. Respondent took vacation time after October 15 and did not return to work until  
24 November 18, 2008. Respondent was interviewed by a senior investigator with Kaiser and  
25 confronted with the evidence obtained in the investigation. Respondent admitted stealing the  
26 generic Fiorinal allegedly to self-medicate for severe migraine headaches.

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1 21. In a written statement to the Board of Pharmacy, Respondent stated that between June  
2 2008 and November 2008, she became physically and mentally dependent on generic Fiorinal and  
3 took approximately 800-900 tablets from the Kaiser pharmacy.

4 22. A Kaiser audit determined that between August 15, 2007 and August 18, 2008, there  
5 were 2,375 tablets of generic Fiorinal missing from inventory.

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Unprofessional Conduct - Commission of Acts Involving  
8 Moral Turpitude, Dishonesty, Fraud, Deceit & Corruption)

9 23. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the  
10 Code in that on or about October 9 and October 15, 2008, Respondent was observed diverting  
11 controlled substances and dangerous drugs from her employer using fraud, deceit, and dishonesty,  
12 as detailed in paragraphs 15-21, above. Such conduct is substantially related to the qualifications,  
13 duties, and functions of a pharmacist.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct – Self-Administration of  
16 Illegally Obtained Controlled Substances)

17 24. Respondent is subject to disciplinary action under section 4301, subdivision (h) of  
18 the Code and Health and Safety Code section 11170 in that in an interview with Kaiser  
19 investigators on or about November 18, 2008, Respondent admitted she diverted generic Fiorinal  
20 for her personal use without a prescription and had become addicted to said controlled substance.  
21 As such, Respondent's use of generic Fiorinal was in a manner as to be dangerous and injurious  
22 to herself and to the public in that it impaired her ability to conduct with safety the practice of  
23 pharmacy.

24 **THIRD CAUSE FOR DISCIPLINE**

25 (Unprofessional Conduct - Violation of California Statutes Regulating  
26 Controlled Substances & Dangerous Drugs)

27 25. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the  
28 Code in that on or about October 9 and October 15, 2008, Respondent knowingly violated

1 Business and Professions Code sections 4022 and 4059 regulating controlled substances and  
2 dangerous drugs, as detailed in paragraphs 15-21, above. Such conduct is substantially related to  
3 the qualifications, duties, and functions of a pharmacist.

4 FOURTH CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct - Violating Laws  
6 & Regulations Governing Pharmacy)

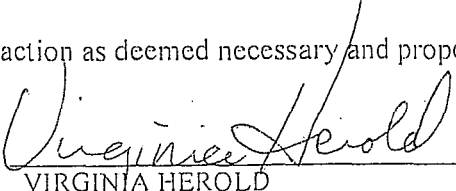
7 26. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the  
8 Code in that on or about October 9 and October 15, 2008, Respondent's diversion of controlled  
9 substances violated Health and Safety Code section 11173, subdivision (a), Board of Pharmacy  
10 Regulations (California Code of Regulations, Title 16, Section 1700, et seq.), and the California  
11 Uniform Controlled Substances Act (Health and Safety Code 11000, et seq.), as detailed in  
12 paragraphs 15-21, above.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacist License Number RPH 38703, issued to Kris  
17 Carin Muraoka;
- 18 2. Ordering Kris Carin Muraoka to pay the Board of Pharmacy the reasonable costs of  
19 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
20 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 9/24/09

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

SD2009804247