

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

In the Matter of the Accusation Against:

LAURA ANNETTE TROVATO, Respondent

Pharmacist License No. RPH 39463

Agency Case No. 6613

OAH No. 2019041087

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 April 15, 2020.

It is so ORDERED on March 16, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg Lippe", is written over the printed name and title.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DANIEL J. CROSS
Deputy Attorney General
4 State Bar No. 203017
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9058
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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 **LAURA ANNETTE TROVATO**
15 **6779 Tuxedo Road**
San Diego, CA 92119

16 **Pharmacist License No. RPH 39463**

17 Respondents.
18

Case No. 6613

OAH No. 2019041087

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 **PARTIES**

22 1. Anne Sodergren (Complainant) is the Interim 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 Xavier Becerra, Attorney General of the State of California, by Daniel J. Cross,
25 Deputy Attorney General.

26 2. Respondent Laura Annette Trovato (Respondent) is represented in this proceeding by
27 attorney Gregory P. Matzen, Esq., whose address is 2104 Big Sandy Court, Gold River, CA
28 95670-8399.

3. On August 27, 1985, the Board issued Pharmacist License Number RPH 39463 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2021, unless renewed.

JURISDICTION

4. Accusation No. 6613 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 13, 2019. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 6613 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 6613. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each right set forth above.

CULPABILITY

9. Respondent admits the truth of each charge and allegation in Accusation No. 6613.

10. Respondent agrees that her Pharmacist License is subject to discipline and agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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CONTINGENCY

11. 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 settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 Settlement 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.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each party.

14. 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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 39463 issued to Respondent Laura Annette Travato is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

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1 **1. Obey All Laws**

2 Respondent shall obey all state and federal laws and regulations. Respondent shall report
3 any of the following occurrences to the board, in writing, within seventy- two (72) hours of such
4 occurrence:

5 an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
7 substances laws;

8 a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
9 criminal proceeding to any criminal complaint, information or indictment;

10 a conviction of any crime; or

11 the filing of a disciplinary pleading, issuance of a citation, or initiation of another
12 administrative action filed by any state or federal agency which involves respondent's
13 license or which is related to the practice of pharmacy or the manufacturing, obtaining,
14 handling, distributing, billing, or charging for any drug, device or controlled substance.

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

16 **2. Report to the Board**

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

21 Failure to submit timely reports in a form as directed shall be considered a violation of
22 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
23 total period of probation. Moreover, if the final probation report is not made as directed,
24 probation shall be automatically extended until such time as the final report is made and accepted
25 by the board.

26 **3. Interview with the Board**

27 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
28 with the board or its designee, at such intervals and locations as are determined by the board or its

1 designee. Failure to appear for any scheduled interview without prior notification to board staff,
2 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
3 the period of probation, shall be considered a violation of probation.

4 **4. Cooperate with Board Staff**

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

11 **5. Continuing Education**

12 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
13 pharmacist as directed by the board or its designee.

14 **6. Reporting of Employment and Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 6235 and the terms, conditions and restrictions imposed
17 on respondent by the decision, as follows:

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

1 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
2 respondent undertaking any new employment, respondent shall cause (a) her direct supervisor, (b)
3 her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
4 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the
5 board in writing acknowledging that the listed individual(s) has/have read the decision in case
6 number 6235, and terms and conditions imposed thereby. If one person serves in more than one
7 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
8 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
9 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
10 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in
11 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
12 in case number 6235, and the terms and conditions imposed thereby.

13 If respondent works for or is employed by or through an employment service, respondent
14 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
15 of the decision in case number 6235, and the terms and conditions imposed thereby in advance of
16 respondent commencing work at such licensed entity. A record of this notification must be
17 provided to the board upon request.

18 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
19 (15) days of respondent undertaking any new employment by or through an employment service,
20 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service
21 to report to the board in writing acknowledging that he or she has read the decision in case
22 number 6235, and the terms and conditions imposed thereby. It shall be respondent's
23 responsibility to ensure that these acknowledgment(s) are timely submitted to the board.

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

27 "Employment" within the meaning of this provision includes any full-time, part-time,
28 temporary, relief, or employment/management service position as a Licensed Pharmacist, or any

1 position for which a Pharmacist License is a requirement or criterion for employment, whether
2 the respondent is an employee, independent contractor or volunteer.

3 **7. Notification of Changes in Name, Address, or Phone Number**

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

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

8 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

9 During the period of probation, respondent shall not supervise any intern pharmacist, be the
10 pharmacist-in-charge, designated representative-in-charge, responsible manager or other
11 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
12 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

13 **9. Reimbursement of Board Costs**

14 As a condition precedent to successful completion of probation, respondent shall pay to the
15 board its costs of investigation and prosecution in the amount of \$3,169.75. Respondent shall be
16 permitted to pay these costs in a payment plan approved by the board or its designee, so long as
17 full payment is completed no later than one (1) year prior to the end date of probation. Failure to
18 pay costs by the deadline(s) as directed shall be considered a violation of probation.

19 **10. Probation Monitoring Costs**

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

24 **11. Status of License**

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

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

5 **12. 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 to accept the surrender or take any other action it deems appropriate and reasonable. Upon formal
11 acceptance of the surrender of the license, respondent will no longer be subject to the terms and
12 conditions of probation. This surrender constitutes a record of discipline and shall become a part
13 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 **13. Practice Requirement – Extension of Probation**

22 Except during periods of suspension, respondent shall, at all times while on probation, be
23 employed as a Licensed Pharmacist in California for a minimum of 80 hours per calendar month.
24 Any month during which this minimum is not met shall extend the period of probation by one
25 month. During any such period of insufficient employment, respondent must nonetheless comply
26 with all terms and conditions of probation, unless respondent receives a waiver in writing from
27 the board or its designee.

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

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

14 14. Remedial Education

15 Within 30 days of the effective date of this decision, respondent shall submit to the board or
16 its designee, for prior approval, an appropriate program of remedial education related to
17 pharmacy operations, pharmacy law, and inventory control. The program of remedial education
18 shall consist of a total of 40 hours (at least 10 hours of which must be completed during each year
19 of probation), fifty percent (50%) of which must be in-person training. The remedial education
20 shall be completed at respondent's own expense. All remedial education shall be in addition to,
21 and shall not be credited toward, continuing education (CE) courses used for license renewal
22 purposes for pharmacists.

23 Failure to timely submit for approval or complete the approved remedial education shall be
24 considered a violation of probation. The period of probation will be automatically extended until
25 such remedial education is successfully completed and written proof, in a form acceptable to the
26 board, is provided to the board or its designee.

27 Following the completion of each course, the board or its designee may require the
28 respondent, at Entity own expense, to take an approved examination to test the respondent's

1 knowledge of the course. If the respondent does not achieve a passing score on the examination
2 that course shall not count towards satisfaction of this term. Respondent shall take another course
3 approved by the board in the same subject area.

4 **15. Diversion Training Program**

5 Within the first year of probation, respondent shall enroll in the board's diversion training
6 program, "Prescription Drug Abuse and Diversion What a Pharmacist Needs to Know," at
7 respondent's expense. Respondent shall provide proof of enrollment upon request. Within five
8 (5) days of completion, respondent shall submit a copy of the certificate of completion to the
9 board or its designee. Failure to timely enroll in the program, to initiate the program during the
10 first year of probation, to successfully complete it before the end of the second year of probation,
11 or to timely submit proof of completion to the board or its designee, shall be considered a
12 violation of probation. Respondent may satisfy the requirements set forth in this paragraph by
13 submitting proof she completed the program within the 12-month period prior to the effective
14 date of this decision.

15 **16. No Ownership or Management of Licensed Premises**

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

23 **17. Violation of Probation**

24 If respondent has not complied with any term or condition of probation, the board shall
25 have continuing jurisdiction over respondent, and the board shall provide notice to respondent
26 that probation shall automatically be extended, until all terms and conditions have been satisfied
27 or the board has taken other action as deemed appropriate to treat the failure to comply as a
28

1 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
2 board or its designee may post a notice of the extended probation period on its website.

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

10 **18. Completion of Probation**

11 Upon written notice by the board or its designee indicating successful completion of
12 probation, respondent's license will be fully restored.

13 **ACCEPTANCE**

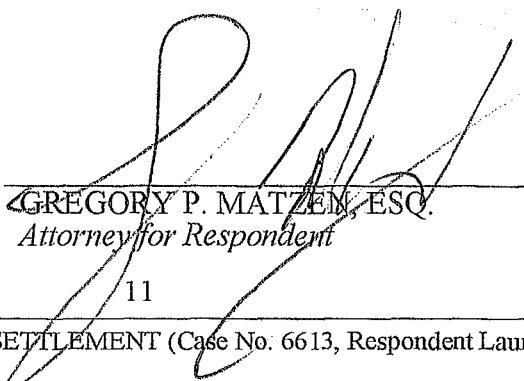
14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
15 discussed it with my attorney, Gregory P. Matzen, Esq. I understand the stipulation and the effect
16 it will have on my Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary
17 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
18 of the Board of Pharmacy.

19
20 DATED: 12-17-19


LAURA ANNETTE TRAVATO
Respondent

21
22
23 I have read and fully discussed with Respondent Laura Annette Travato the terms and
24 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
25 I approve its form and content.

26
27 DATED: 12/4/19


GREGORY P. MATZEN, ESQ.
Attorney for Respondent

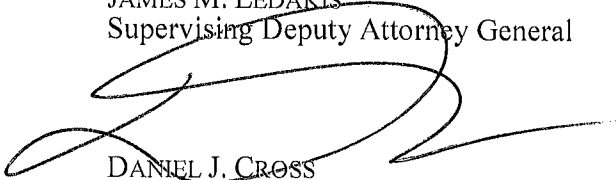
ENDORSEMENT

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

DATED: 1/18/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General


DANIEL J. CROSS
Deputy Attorney General
Attorneys for Complainant

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72055338.docx

Exhibit A

Accusation No. 6613

1 XAVIER BECERRA
Attorney General of California
2 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9429
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 6613

14 **RADY CHILDREN'S HOSPITAL SAN DIEGO,**
15 **DBA CHILDREN'S MEDICAL CENTER**
16 **PHARMACY**
3030 Children's Way, Ste. 108
San Diego, CA 92123

A C C U S A T I O N

17 **Pharmacy Permit No. PHY 37113,**

18 **MARK SEY**
255 Alameda Blvd.
19 **Coronado, CA 92118**

20 **Pharmacist License No. RPH 35514,**

21 **and**

22 **LAURA ANNETTE TROVATO**
6779 Tuxedo Road
23 **San Diego, CA 92119**

24 **Pharmacist License No. RPH 39463**

25 Respondents.

1 Complainant alleges:

2 **PARTIES**

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

6 2. On or about May 9, 1991, the Board issued Pharmacy Permit Number PHY 37113 to
7 Rady Children's Hospital San Diego, dba Children's Medical Center Pharmacy (Children's
8 Medical Center Pharmacy). The Pharmacy Permit was in full force and effect at all times
9 relevant to the charges brought herein and will expire on May 1, 2019, unless renewed.

10 3. On or about August 15, 1980, the Board issued Pharmacist License Number RPH
11 35514 to Mark Sey (Mark Sey). The Pharmacist License was in full force and effect at all times
12 relevant to the charges brought herein and will expire on January 31, 2020, unless renewed.

13 4. On or about August 27, 1985, the Board issued Pharmacist License Number RPH
14 39463 to Laura Annette Trovato (Laura Trovato). The Pharmacist License was in full force and
15 effect at all times relevant to the charges brought herein and will expire on February 28, 2021,
16 unless renewed.

17 **JURISDICTION**

18 5. This Accusation is brought before the Board under the authority of the following
19 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

23 7. Section 4300(a) of the Code provides that every license issued by the Board may be
24 suspended or revoked.

25 ///

26 ///

27 ///

28 ///

1 8. Section 4300.1 of the Code states:

2 The expiration, cancellation, forfeiture, or suspension of a board-issued license
3 by operation of law or by order or decision of the board or a court of law, the
4 placement of a license on a retired status, or the voluntary surrender of a license by a
5 licensee shall not deprive the board of jurisdiction to commence or proceed with any
6 investigation of, or action or disciplinary proceeding against, the licensee or to render
7 a decision suspending or revoking the license.

8 **STATUTORY AND REGULATORY PROVISIONS**

9 9. Section 4081 of the Code states in pertinent part:

10 (a) All records of manufacture and of sale, acquisition, or disposition of
11 dangerous drugs or dangerous devices shall be at all times during business hours
12 open to inspection by authorized officers of the law, and shall be preserved for at
13 least three years from the date of making. A current inventory shall be kept by
14 every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,
15 physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or
16 establishment holding a currently valid and unrevoked certificate, license, permit,
17 registration, or exemption under Division 2 (commencing with Section 1200) of the
18 Health and Safety Code or under Part 4 (commencing with Section 16000) of
19 Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous
20 drugs or dangerous devices.

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

25 10. Section 4301 of the Code states in pertinent part:

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

 (c) Gross negligence.

 ...

 (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 any other state or federal regulatory
agency.

 ...

1 11. Section 4113(c) of the Code states:

2 The pharmacist-in-charge shall be responsible for a pharmacy's compliance
3 with all state and federal laws and regulations pertaining to the practice of pharmacy.

4 12. Section 4306.5 of the Code states, in pertinent part:

5 Unprofessional conduct for a pharmacist may include any of the following:

6 Acts or omissions that involve, in whole or in part, the inappropriate exercise of
7 his or her education, training, or experience as a pharmacist, whether or not the act or
8 omission arises in the course of the practice of pharmacy or the ownership,
management, administration, or operation of a pharmacy or other entity licensed by
the board.

9 Acts or omissions that involve, in whole or in part, the failure to consult
10 appropriate patient, prescription, and other records pertaining to the performance of
any pharmacy function.

11 ...

12 13. Section 4307(a) of the Code states that:

13 Any person who has been denied a license or whose license has been revoked or is
14 under suspension, or who has failed to renew his or her license while it was under
suspension, or who has been a manager, administrator, owner member, officer,
15 director, associate, or partner of any partnership, corporation, firm, or association
whose application for a license has been denied or revoked, is under suspension or
16 has been placed on probation, and while acting as the manger, administrator, owner,
member, officer, director, associate, or partner had knowledge or knowingly
17 participated in any conduct for which the license was denied, revoked, suspended, or
placed on probation, shall be prohibited from serving as a manger, administrator,
owner, member, officer, director, associate, or partner of a licensee as follows:

18 (1) Where a probationary license is issued or where an existing license is placed
19 on probation, this prohibition shall remain in effect for a period not to exceed five
20 years.

21 (2) Where the license is denied or revoked, the prohibition shall continue until
the license is issued or reinstated.

22 14. Sections 1714(b) and 1714(d) of title 16, California Code of Regulations state:

23 (b) Each pharmacy licensed by the board shall maintain its facilities, space,
24 fixtures, and equipment so that drugs are safely and properly prepared, maintained,
secured and distributed. The pharmacy shall be of sufficient size and unobstructed
25 area to accommodate the safe practice of pharmacy.

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

15. Section 1718 of title 16, California Code of Regulations states:

“Current Inventory” as used in Section 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Section 4081 and 4332.

The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least three years.

COSTS

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

DRUGS

17. Acetaminophen with codeine, sold under the brand name Tylenol #3, is a Schedule III controlled substances pursuant to Health and Safety Code section 11056, subdivision (e)(2), and a dangerous drug pursuant to Business and Professions Code section 4022.

18. Alprazolam, sold under the brand name Xanax, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

19. Promethazine with codeine syrup, sold under the brand name Phenergan with Codeine, is a Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision (c)(1), and is a dangerous drug pursuant to Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

20. At all times referenced herein, Respondent Mark Sey was the Pharmacist-in-Charge and Respondent Laura Trovato was the Pharmacist Manager of Respondent Children's Medical Center Pharmacy located in San Diego, California. Respondent Children's Medical Center Pharmacy dispensed drugs to children who were outpatients at Rady's Children's Hospital.

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1 21. Respondent Children's Medical Center Pharmacy's policies and procedures for the
2 ordering and security of controlled substances were inadequate and even those policies and
3 procedures were not adhered to by Respondents as described herein.

4 22. Respondent Children's Medical Center Pharmacy did not have surveillance cameras
5 located in and about all of its premises, including the storage room. Security cameras were not
6 regularly reviewed for suspicious behavior exhibited by pharmacy staff.

7 23. Effective January 2016, Respondent Children's Medical Center Pharmacy's
8 Purchasing Procedures (OPRx 3010) provided that at the end of the day, drug purchase orders
9 would be "printed and reviewed by the pharmacist on duty. Once reviewed and deemed
10 acceptable, the pharmacist w[ould] sign the order and the technician w[ould] transmit the order."
11 It further provided that a pharmacist would "confirm receipt of drug deliveries...[f]or security
12 measures, the pharmacy technician placing the current order cannot be the same technician that
13 puts away the order when it arrives." The Pharmacy Manager was required to review daily the
14 drug purchase orders for "appropriateness."

15 24. Effective January 2016, Respondent Children's Medical Center Pharmacy's Ordering
16 and Receiving Controlled Substances from Outside the Institution Policy (OPRx 5020) provided
17 that it would "order and receive controlled substances in a manner to adhere to all state and
18 federal regulations and allow for appropriate inventory levels." There were no extra security
19 measures in place for the ordering of Schedules III-V controlled substances. No separate
20 inventory or log was required to be maintained for Schedules III-V controlled substances.

21 25. Promethazine with codeine and alprazolam were not controlled substances regularly
22 dispensed by Respondent Children's Medical Center Pharmacy to children.

23 26. From approximately August 2017 through mid-June 2018, a pharmacy technician,
24 V.Q. diverted alprazolam and promethazine with codeine syrup for self-use from Respondent
25 Children's Medical Center Pharmacy. She purchased 119 pints of promethazine with codeine
26 syrup and 53 bottles of alprazolam 2 mg tablets from Respondent Children's Medical Center
27 Pharmacy's wholesaler using the online ordering system, typically on Friday evenings, without a
28 pharmacist reviewing her orders and verifying them.

1 27. When the orders which included the alprazolam and promethazine with codeine
2 ordered by V.Q. arrived at Respondent Children's Medical Center Pharmacy the next day, V.Q.
3 was the technician who put away the order, even though she was the technician who placed the
4 order. She concealed the promethazine with codeine and alprazolam in her backpack, walked
5 around the pharmacy with the controlled substances in her backpack and removed those
6 controlled substances from the pharmacy.

7 28. Respondent Laura Trovato did not review those purchase orders and just signed them
8 as "approved." Respondent Laura Trovato also did not reconcile these purchasing orders at a
9 later point, relying on staff who received the orders to verify them.

10 29. On June 22, 2018, Respondent Laura Trovato reviewed a purchasing invoice which
11 indicated that seven pints of promethazine with codeine syrup had been purchased by Respondent
12 Children's Medical Center Pharmacy. Respondent Laura Trovato then searched the inventory for
13 the seven pints of promethazine with codeine but was unable to locate the pints.

14 30. Respondent Laura Trovato notified Respondent Mark Sey of the missing pints of
15 promethazine with codeine, and he ran dispensing reports which indicated that Respondent
16 Children's Medical Center Pharmacy did not dispense 5300 tablets of alprazolam 2mg and 119
17 pints of promethazine with codeine in the previous twelve months. Those controlled substances
18 also could not be located in the inventory of the pharmacy. Additionally, the pharmacy's internal
19 audit revealed that 47 tablets of acetaminophen with codeine 300/30 mg were missing from its
20 inventory.

21 31. On June 27, 2018, Respondent Mark Sey submitted a DEA 106 Order reporting the
22 loss or theft of alprazolam 2 mg and promethazine with codeine to the Board.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Failure to Maintain Current Inventory of Controlled Substances against Respondents)**

25 32. Respondents are subject to disciplinary action under Code section 4301(o), for
26 violating title 16, California Code of Regulations, section 1718, in that they did not maintain a
27 current inventory of controlled substances and suffered losses in their inventory of those
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1 controlled substances, as set forth in paragraphs 20 through 31 above, which are incorporated
2 herein by reference.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to Provide Adequate Security for Controlled Substances against Respondents)**

5 33. Respondents are subject to disciplinary action under Code section 4301(o), for
6 violating title 16, California Code of Regulations, sections 1714(b) and 1714(d), in that they did
7 not provide adequate security for controlled substances, as set forth in paragraphs 20 through 31
8 above, which are incorporated herein by reference.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Failure to Maintain Records of Acquisition and Disposition against Respondents)**

11 34. Respondents are subject to disciplinary action under Code section 4301(o), for
12 violating Code sections 4081(a) and 4105(a), in that they failed to maintain all the records of
13 acquisition and disposition for controlled substances, as set forth in paragraphs 20 through 31,
14 which are incorporated herein by reference.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Failure to Exercise or Implement Best Professional Judgment or Corresponding**
17 **Responsibility when Dispensing Controlled Substances against Laura Trovato)**

18 35. Respondent Laura Trovato is subject to disciplinary action under Code section
19 4301(o), for violating Business and Professions Code section 4306.5, subdivisions (a) and (b), in
20 that she failed to exercise or implement her best professional judgment when she failed to
21 recognize the diversion of promethazine with codeine and alprazolam 2mg, as set forth in
22 paragraphs 20 through 31 above, which are incorporated herein by reference.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 **(Gross Negligence Against Laura Trovato)**

25 36. Respondent Laura Trovato is subject to disciplinary action under Code section
26 4301(c), for gross negligence, in that she failed to recognize the diversion of promethazine with
27 codeine and alprazolam 2mg, as set forth in paragraphs 20 through 31 above, which are
28 incorporated herein by reference.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct against Respondents)**

3 37. Respondents are subject to disciplinary action under Code section 4301 for
4 unprofessional conduct in that they engaged in the activities described in paragraphs 20 through
5 31 above, which are incorporated herein by reference.

6 **OTHER MATTERS**

7 38. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No.
8 PHY 37113 issued to to Rady Children's Hospital San Diego, dba Children's Medical Center
9 Pharmacy shall be prohibited from serving as a manager, administrator, owner, member, officer,
10 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 37113
11 is placed on probation or until Pharmacy Permit Number PHY 37113 is reinstated if it is revoked.

12 39. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
13 RPH 35514 issued to Mark Sey, Mark Sey shall be prohibited from serving as a manager,
14 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
15 Pharmacist License Number RPH 45111 is placed on probation or until Pharmacist License
16 Number RPH 35514 is reinstated if it is revoked.

17 40. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
18 RPH 39463 issued to Laura Annette Trovato, Laura Annette Trovato shall be prohibited from
19 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
20 licensee for five years if Pharmacist License Number RPH 39463 is placed on probation or until
21 Pharmacist License Number RPH 39463 is reinstated if it is revoked.

22 **DISCIPLINARY CONSIDERATIONS**

23 41. To determine the degree of discipline, if any, to be imposed on Respondent
24 Children's Medical Center Pharmacy, Complainant alleges that on September 23, 2015, the Board
25 issued Citation number CI 2013 60617 against Respondent Children's Medical Center Pharmacy
26 for violating California Code of Regulations, title 16, section 1764 and Civil Code section 56.10,
27 subdivision (a) for the unauthorized release of protected healthcare information and the
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1 unauthorized disclosure of prescription information. The Board issued a fine which Respondent
2 paid.

3 **PRAYER**

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

6 1. Revoking or suspending Pharmacy Permit Number PHY 37113, issued to Rady
7 Children's Hospital San Diego, dba Children's Medical Center Pharmacy;

8 2. Revoking or suspending Pharmacist License Number RPH 35514, issued to Mark
9 Sey;

10 3. Revoking or suspending Pharmacist License Number RPH 39463, issued to Laura
11 Annette Trovato;

12 4. Prohibiting Rady Children's Hospital San Diego, dba Children's Medical Center
13 Pharmacy from serving as a manager, administrator, owner, member, officer, director, associate,
14 or partner of a licensee for five years if Pharmacy Permit Number PHY 37113 is placed on
15 probation or until Pharmacy Permit Number PHY 37113 is reinstated if Pharmacy Permit Number
16 PHY 37113 issued to Rady Children's Hospital San Diego, dba Children's Medical Center
17 Pharmacy is revoked;

18 5. Prohibiting Mark Sey from serving as a manager, administrator, owner, member,
19 officer, director, associate, or partner of a licensee for five years if Pharmacist License Number
20 RPH 35514 is placed on probation or until Pharmacist License Number RPH 35514 is reinstated
21 if Pharmacist License Number RPH 35514 issued to Mark Sey is revoked;

22 6. Prohibiting Laura Annette Trovato from serving as a manager, administrator, owner,
23 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
24 Number RPH 39463 is placed on probation or until Pharmacist License Number RPH 39463 is
25 reinstated if Pharmacist License Number RPH 39463 issued to Laura Annette Trovato is revoked;

26 7. Ordering Children's Medical Center Pharmacy, Mark Sey and Laura Annette Trovato
27 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this
28 case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: February 11, 2019



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

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