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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. 5934

12 **GRANT GUNTHER MILLER**
13 **10248 Camino Ruiz #181**
14 **San Diego, CA 92126**

A C C U S A T I O N

15 **Pharmacy Technician Registration**
No. TCH 129435

16 Respondent.

17
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 January 7, 2013, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 129435 to Grant Gunther Miller (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on September 30, 2016, 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 unless otherwise indicated.

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

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license by
9 operation of law or by order or decision of the board or a court of law, the placement of a
10 license on a retired status, or the voluntary surrender of a license by a licensee shall not
11 deprive the board of jurisdiction to commence or proceed with any investigation of, or
12 action or disciplinary proceeding against, the licensee or to render a decision suspending
13 or revoking the license.

12 **STATUTORY PROVISIONS**

13 6. Section 4301 of the Code states:

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

18

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

22

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

25

26 7. Health & Safety Code section 11150 states:

27 No person other than a physician, dentist, podiatrist, or veterinarian, or
28 naturopathic doctor acting pursuant to Section 3640.7 of the Business and Professions
Code, or pharmacist acting within the scope of a project authorized under Article 1
(commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or within
the scope of Section 4052.1, 4052.2, or 4052.6 of the Business and Professions Code,
a registered nurse acting within the scope of a project authorized under Article 1
(commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a certified
nurse-midwife acting with the scope of Section 2746.51 of the Business and
Professions Code, a nurse practitioner acting within the scope of Section 2836.1 of
the Business and Professions Code, a physician assistant acting within the scope of a
project authorized under Article 1 (commencing with Section 128125) of Chapter 3

1 of Part 3 of Division 107 or Section 3502.1 of the Business and Professions Code, a
2 naturopathic doctor acting within the scope of Section 3640.5 of the Business and
3 Professions Code, or an optometrist acting within the scope of Section 3041 of the
4 Business and Professions Code, or an out-of-state prescriber acting pursuant to
5 Section 4005 of the Business and Professions Code shall write or issue a prescription.

6 8. Health & Safety Code section 11157 states:

7 No person shall issue a prescription that is false or fictitious in any respect.

8 9. Health & Safety Code section 11173(a) states:

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

13 COSTS

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

20 DRUG

21 11. Hydrocodone/acetaminophen, also known as Norco is a Schedule III controlled
22 substance pursuant to Health and Safety Code section 11056(e)(5) and a dangerous drug pursuant
23 to Business and Professions Code section 4022.

24 FACTUAL ALLEGATIONS

25 12. At all times relevant herein, Respondent was employed as a pharmacy technician at
26 Scripps Memorial Hospital in Encinitas, California.

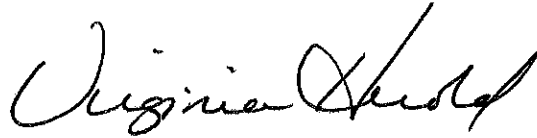
27 13. On September 30, 2014 at approximately 6:00 p.m, a male who sounded like
28 Respondent telephoned Rite Aid Pharmacy in Encinitas, California. He identified himself as
Brett and an employee of Dr. Christopher H. He proceeded to "call in" a prescription for Norco
5/325mg #10, 1 every 6 hours as needed for pain, in the name of Respondent. The pharmacist
stated that she needed to verify the prescription.

1 2. Ordering Grant Gunther Miller to pay the Board of Pharmacy the reasonable costs of
2 the investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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8 DATED: _____

8/29/16



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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