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7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 ANTOINETTE M. WIRKUS BLANNIN
6811 Rocky Grove Court
14 Yorba Linda, CA 92886

15 Pharmacy Technician No. TCH 12836

16 Respondent.
17

Case No. 2790

OAH No. L2005010571

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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. Patricia F. Harris (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 Bill Lockyer, Attorney General of the State of California, by James M. Ledakis, Deputy
24 Attorney General.

25 2. ANTOINETTE M. WIRKUS BLANNIN (Respondent) is representing
26 herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

27 3. On or about May 4, 1994, the Board of Pharmacy (Board) issued
28 Pharmacy Technician registration no. TCH 12836 to Respondent. The license was in full force

1 and effect at all times relevant to the charges brought in Accusation No. 2790 and will expire on
2 November 30, 2005, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2790 was filed before the Board, and is currently pending
5 against Respondent. The Accusation and all other statutorily required documents were properly
6 served on Respondent on December 23, 2004. Respondent timely filed her Notice of Defense
7 contesting the Accusation. A copy of Accusation No. 2790 is attached as exhibit A and
8 incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations
11 in Accusation No. 2790. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

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

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

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in
24 Accusation No. 2790, agrees that cause exists for discipline and hereby surrenders her Pharmacy
25 Technician registration no. TCH 12836 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation, it enables the
27 Board to issue an order accepting the surrender of her Pharmacy Technician registration without
28 further process.

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1 California, all of the charges and allegations contained in Accusation, No. 2790 shall be deemed
2 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
3 other proceeding seeking to deny or restrict licensure.

4 17. Respondent shall pay the Board its costs of investigation and enforcement
5 in the amount of \$1,500.00 prior to issuance of a new or reinstated license.

6 ACCEPTANCE

7 I have carefully read the Stipulated Surrender of License and Order. I understand
8 the stipulation and the effect it will have on my Pharmacy Technician registration. I enter into
9 this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and
10 agree to be bound by the Decision and Order of the Board.

11 DATED: May 5, 2005

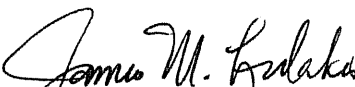
12
13 
14 ANTONETTE M. WIRKUS BLANNIN
15 Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Surrender of License and Order is hereby respectfully
18 submitted for consideration by the Board.

19 DATED: May 5, 2005

20
21 BILL LOCKYER, Attorney General
22 of the State of California

23 
24 JAMES M. LEDAKIS
25 Deputy Attorney General

26 Attorneys for Complainant

27 DOJ Matter ID: SD2004800935
28 stip surrender blannin.wpd

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

In the Matter of the Accusation Against:

ANTOINETTE M. WIRKUS BLANNIN
6811 Rocky Grove Court
Yorba Linda, CA 92886

Pharmacy Technician Registration No. TCH
12836

Respondent.

Case No. 2790

OAH No.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, as its Decision in this matter.

This Decision shall become effective on July 20, 2005.

It is so ORDERED June 20, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board Vice President

Exhibit A
Accusation No. 2790

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES M. LEDAKIS, State Bar No. 132645
Deputy Attorney General
3 California Department of Justice
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BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2790

13 ANTOINETTE M. WIRKUS BLANNIN
6811 Rocky Grove Court
14 Yorba Linda, CA 92886

A C C U S A T I O N

15 TCH License No. 12836

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about May 4, 1994, the Board of Pharmacy issued Pharmacy
24 Technician registration license number TCH 12836 to ANTOINETTE M. WIRKUS BLANNIN
25 (Respondent). Said license will expire on November 30, 2005, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Pharmacy (Board), under
28 the authority of the following sections of the Business and Professions Code (Code).

Drugs Defined:

4. Section 4022 of the Code states:

Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, 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.

"..."

5. Norco is also known as Acetaminophen or Hydrocodone which is a Schedule III drug as classified by Health & Safety Code section 11056(e)(4).

6. Section 4300 of the Code states:

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

"..."

7. Section 4301 of the Code states:

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

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

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal

1 Code allowing the person to withdraw his or her plea of guilty and to enter a plea
2 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information, or indictment.

3 (p) Actions or conduct that would have warranted denial of a license.
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5 8. Section 4323 of the Code states:

6 Every person who, in order to obtain any drug, falsely represents himself or
7 herself to be a physician or other person who can lawfully prescribe the drug, or
falsely represents that he or she is acting on behalf of a person who can lawfully
prescribe the drug, in a telephone or electronic communication with a pharmacist,
shall be punished by imprisonment in the county jail for not more than one year.

8 9. Section 4324 of the Code states:

9 (a) Every person who signs the name of another, or of a fictitious person, or
10 falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as
genuine, any prescription for any drugs is guilty of forgery and upon conviction
11 thereof shall be punished by imprisonment in the state prison, or by imprisonment
in the county jail for not more than one year. (b) Every person who has in his or
12 her possession any drugs secured by a forged prescription shall be punished by
imprisonment in the state prison, or by imprisonment in the county jail for not
13 more than one year.

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

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

22 **Statement of Facts:**

23 12. On October 22, 2003, respondent attempted to pick up and purchase a
24 forged prescription for Norco under the fictitious name of Nicole Lassiter. The pharmacist at the
25 subject pharmacy noted that respondent had picked up prescriptions approximately four times
26 during the month of October 2003. The pharmacist notified the local police department. The
27 City of Orange Police Department confronted respondent at the pharmacy and asked respondent
28 who was Nicole Lassiter. Respondent told the officer that she made the name up in order to get

1 the Norco prescription. Further, respondent told the officer that she called the pharmacy and
2 posed as a nurse for Dr. B. and ordered the Norco for fictitious patient, Nicole Lassiter.

3 13. Subsequent to respondent's arrest, on December 10, 2003, in Orange
4 County Superior Court, case no. 03CM08434, respondent pled guilty to a violation of Health &
5 Safety Code section 11368, for forging, issuing a prescription, or obtaining, possessing drugs
6 secured by a forged prescription.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct for Acts Involving Dishonesty)**

9 14. Complainant incorporates by reference paragraphs 12 through 13, above.

10 15. Respondent is subject to disciplinary action under section 4301(f) in that
11 on October 22, 2003, respondent used a forged prescription to obtain Norco.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct for Violation of Law)**

14 16. Complainant incorporates by reference paragraphs 12 through 13, above.

15 17. Respondent is subject to disciplinary action under section 4301(j) in that
16 Respondent pled guilty to violating Health & Safety Code section 11368, a misdemeanor, in
17 Orange County Superior Court.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct for Conviction of Crime Substantially Related
20 to her Duties as a Pharmacy Technician)**

21 18. Complainant incorporates by reference paragraphs 12 through 13, above.

22 19. Respondent is subject to disciplinary action under section 4301(f) in that
23 Respondent pled guilty with a deferred sentence to violating Health & Safety Code section
24 11368, possession of drugs with a forged prescription.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct for Engaging in Conduct Warranting Denial of a License)**

27 20. Complainant incorporates by reference paragraphs 12 through 13, above.

28 21. Respondent is subject to disciplinary action under section 4301(p) in that

1 her conduct would warrant the denial of her pharmacy technician's license.

2 **FIFTH CAUSE FOR DISCIPLINE**

3 **(Using False Identity to Obtain Drugs)**

4 22. Complainant incorporates by reference paragraphs 12 through 13, above.

5 23. Respondent is subject to disciplinary action under section 4323 in that she
6 falsely represented herself as a nurse calling from Dr. B.'s office when she ordered Norco for a
7 fictitious patient, Nicole Lassiter.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Falsifying a Prescription)**

10 24. Complainant incorporates by reference paragraphs 12 through 13, above.

11 25. Respondent is subject to disciplinary action under section 4324 in that she
12 falsified the prescription and created a false identity in order to obtain Norco for which she did
13 not have a legal prescription.

14 **PRAYER**

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

17 1. Revoking or suspending TCH License No. 12836, issued to
18 ANTOINETTE M. WIRKUS BLANNIN;

19 2. Ordering ANTOINETTE M. WIRKUS BLANNIN to pay the Board of
20 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
21 Business and Professions Code section 125.3;

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

23 DATED: 12/20/04

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

Accusation 2

