

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

In the Matter of the Amended Accusation against:

RONALD BRADLEY HASLAM
4480 Olive Street
La Mesa, CA 91941

Pharmacist License No. RPH 43678

Respondent.

Case No. 2797

OAH No. L2005070878

DECISION AFTER NONADOPTION

Administrative Law Judge Robert D. Iafe, of the State of California Office of Administrative Hearings, heard this matter in San Diego, California, on October 3, 2006.

Rita M. Lane, Deputy Attorney General, California Department of Justice, appeared on behalf of Complainant Patricia F. Harris, Executive Officer of the California State Board of Pharmacy (Board), Department of Consumer Affairs, State of California.

Respondent Ronald Bradley Haslam (Respondent or Haslam) appeared on his own behalf and was present during the entire hearing.

The record was opened on October 3, 2006. Documents and testimony were offered and received into evidence, and the parties made closing arguments. The record was then closed and the matter was submitted on October 3, 2006.

The proposed decision of the Administrative Law Judge was submitted to the Board on November 1, 2006. After due consideration thereof, the Board declined to adopt said proposed decision and thereafter on February 13, 2007 issued an Order of Non-adoption and subsequently on May 24, 2007 issued an Order Fixing Date for Submission of Argument. Written argument having been received from Deputy Attorney General Rita M. Lane and the time for filing written argument in this matter having expired, and the entire record, including the transcript of said

hearing having been read and considered, the Board, pursuant to Section 11517 of the Government Code, hereby makes the following decision:

FACTUAL FINDINGS

Stipulated Evidence:

Respondent's License History:

1. On or about August 6, 1990, the Board issued Original Pharmacist License Number RPH 43678 to Respondent Haslam. Respondent's license expires on February 29, 2008, unless renewed or revoked. There is no history of any disciplinary action against Respondent's license before this proceeding.

Controlled Substances:

2. At all times material, Lortab was and is a trade name for the generic drug hydrocodone with acetaminophen which is designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

3. At all times material, Lorcet was and is a trade name for the generic drug hydrocodone with acetaminophen which is designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

4. At all times material, Norco was and is a trade name for the generic drug hydrocodone with acetaminophen which is designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

5. At all times material, Vicodin was and is a trade name for the generic drug hydrocodone with acetaminophen which is designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

6. At all times material, Valium was and is a trade name for the generic drug diazepam which is designated by Health and Safety Code section 11057(d)(3) as a non-narcotic drug and a Schedule IV controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used in the management of anxiety.

7. At all times material, Phentermine was and designated by Health and Safety Code section 11057(f)(2) as a Schedule IV controlled substance, and by Business and Professions Code

section 4022 as a dangerous drug, and is used as a stimulant.

8. At all times material, Xanax was and is a trade name for the generic drug alprazolam which is designated by Health and Safety Code section 11057(d)(1) as a Schedule IV controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used in the treatment of anxiety.

9. At all times material, Trazadone was and is a trade name for the generic drug desyrel which is a dangerous drug within the meaning of Business and Professions Code section 4022, and is used for the treatment of depression.

10. At all times material, Effexor was and is a trade name for the generic drug venlafaxine which is a dangerous drug within the meaning of Business and Professions Code section 4022, and is used for the treatment of depression and generalized anxiety.

11. At all times material, Neurontin was and is a trade name for the generic drug gabapentin which is a dangerous drug within the meaning of Business and Professions Code section 4022, and is used for adjunctive therapy in the treatment of partial seizures.

12. At all times material, Clonidine was and is a trade name for the generic drug catapress which is a dangerous drug within the meaning of Business and Professions Code section 4022, and is used for the treatment of hypertension.

13. At all times material, Viagra was and is a trade name for the generic drug sildenafil which is a dangerous drug within the meaning of Business and Professions Code section 4022, and is used for erectile dysfunction.

Respondent's Conduct at Wal Mart Pharmacy 2253

14. In February and March 2004, Respondent was employed as a pharmacist at Wal-Mart Pharmacy 2253, located in El Cajon, California.

15. During February 2004, Wal-Mart placed a surveillance camera in Pharmacy 2253. The tape from the surveillance camera on February 24, 2004, shows Respondent selecting a bottle from a shelf within the pharmacy, opening the bottle, and consuming medication from the bottle. After consuming the medication as revealed in the surveillance video, Respondent, while on duty as a pharmacist, sold, dispensed, and compounded drugs at Wal-Mart Pharmacy 2253.

16. On March 10, 2004, agents from the Bureau of Narcotic Enforcement confronted Respondent with controlled substances and dangerous drugs that were missing from Wal Mart Pharmacy 2253. At this time, Respondent admitted to the agents that he was ingesting up to eight tablets per day of controlled substances that contained hydrocodone. On the same day, Respondent permitted the agents to search his person and residence. In the search, the agents found the following controlled substances and dangerous drugs that Respondent diverted from Wal-Mart Pharmacy 2253 during February and March 2004:

| Drug | Amount |
|------------------|---------------|
| Lortab | 34 |
| Lorcet | 13 |
| Norco | 22 |
| Trazadone 100 mg | 12 |
| Trazadone 50 mg | 82 |
| Phentermine | 1 |
| Valium | 130+ |
| Viagra | 11 |
| Neurontin | 1 |
| Clonidine | 1 |

17. On or about March 17, 2004, in the Superior Court of California, County of San Diego, East County Division, in a case entitled *People v. Ronald Bradley Respondent*, Case No. C238398, Respondent was convicted on his plea of guilty of violating Penal Code section 487(b)(3) (grand theft by employee), a misdemeanor. The facts and circumstances behind this conviction relate to Respondent's diversion of controlled substances from Wal-Mart Pharmacy 2253, described in paragraphs 14 and 15 above.

18. As punishment for his conviction under Penal Code section 487(b)(3), Respondent was placed on probation for two years, with 180 days in custody stayed pending successful completion of probation, and ordered to pay a fine of \$500.00 and a restitution fine of \$100.00.

Respondent's Conduct at Longs Drug Stores

19. On or about March 25, 2004, Respondent completed an Employment Application to work as a pharmacist at Longs Drug Stores. In the Employment Application, Respondent failed to reference his employment at Wal-Mart Pharmacy 2253. Longs Drug Stores hired Respondent to work as a "floater" pharmacist at drug stores in the San Diego Area.

20. On or about June 14, 2004, managers for Longs Drug Stores confronted Respondent regarding missing personal property, time card discrepancies, and missing medications. At that time, Respondent admitted that he had taken a cordless phone set and a boom box from Longs Drug Store #274. These items were subsequently returned. Respondent also admitted that there were a total of 20 minutes on his time cards for which he was not entitled to receive payment. Respondent also admitted that he diverted for his personal use the following controlled substances and dangerous drugs from various Longs Drug Stores where he worked:

| Drug | Amount |
|-------------|---------------|
| Vicodin | 300 |
| Norco | 140 |
| Xanax | 35 |
| Effexor | 24 |

21. On June 14, 2004, Respondent admitted to the managers at Longs Drug Stores that he diverted the above-described medications due to medical conditions that he was experiencing. Respondent consumed the drugs described in paragraph 20 above when he was on duty as a pharmacist at Longs Drug Stores, and that he sold, dispensed, and compounded drugs while under the influence of such medications.

Respondent's Evidence on Mitigation and Rehabilitation:

Background and Respondent's Conduct After His Employment at Wal-Mart Pharmacy 2253 and Longs Drug Stores

22. Respondent has suffered from chronic neck and upper back pain for many years dating back to his late teens. The severity of his pain increased after a motor vehicle accident which occurred in 1997. The pain becomes worse after prolonged periods of time standing, looking down at his work area, and holding a telephone between his ear and shoulder, three postures associated with his job as a pharmacist. He had tried several different types of therapy including hot and cold physical therapy, strength training, deep tissue massage, and epidural injections which made no significant difference in his pain management. He explained that at one time he had prescriptions from a physician for his pain management for the drugs found in his possession in 2004.

23. In the past few years Respondent has seen a number of medical doctors to help with his condition including his primary care doctor Robert Lajvardi, M.D. and Ellyn Levine, M.D. Respondent was then referred to Christopher Glazener, M.D., an anesthesiologist, who provided area-specific injections which gave some temporary relief. In spite of these treatments, the pain persisted.

24. In early 2006, Respondent was referred to William L. Wilson, M.D. who is an anesthesiologist and chronic pain management specialist. He specializes in the diagnosis, treatment, and management of pain disorders. Dr. Wilson concluded that Respondent suffered from a cervical facet syndrome. He treated Respondent with paravertebral facet joint injections of Lidocaine and cortisone in his neck region, using fluoroscopic guidance. This procedure, which results in a more precise injection, has given Respondent far better relief of his pain than any other mode of treatment over the years. Over time, and with the help of these injections, Respondent has been able to reduce his other pain medications.

25. In a written report dated February 24, 2006, William L. Wilson, M.D., describes the history and prescribed medications used by Respondent, his examination results, diagnosis and recommendations for Respondent. He notes many of the medications, with the prescribed amounts, that Respondent used in the attempt to manage the pain he suffered over the years. The medications included generics and various brand names including Lortab, Norco, Trazadone, Xanax, and Effexor, among others. Dr. Wilson also referred Respondent for an evaluation by Gary Eaton, M.D., F.A.C.P., a psychiatrist and addiction specialist, regarding drug-seeking or addictive behaviors.

26. Dr. Wilson wrote in a February 24, 2006 report that it was possible that the

medications in addition to providing analgesia were providing some form of psychotropic support for Respondent's depression and anxiety. He went on to write that patients are frequently not able to distinguish the various beneficial effects of the medications on their overall sense of well-being.

27. In a March 29, 2006 letter to Dr. Wilson, Dr. Eaton wrote that Respondent did not appear to have any signs of addiction or abuse or illicit or illegal drug use.

28. In a May 22, 2006 unaddressed letter to "To whom it may concern," Dr. Wilson wrote that the purpose of the letter was to note that Respondent's symptoms were consistent with cervical facet syndrome. Respondent's response to therapy allowed him to reduce his narcotic drug intake. Dr. Wilson also concluded that Respondent's ability to reduce his drug intake was consistent with the absence of addictive disease and that addictive disease had not played a role in the course of Respondent's pain problem.

29. Respondent testified that in 15 years of practice as a pharmacist, he had no major misfills of a prescription, no lawsuits and no discipline problems other than this proceeding. He has not had any trouble with the law for any addictive behavior or for driving under the influence. He is very methodical in the way he practices and always double and triple checks what goes out of the pharmacy with a view toward the health and safety of his customers.

30. Respondent testified with remorse when he admitted that his failure to get his pain prescriptions refilled was, in his own words, lazy and stupid. During this time he was waiting for his health insurance, which had been terminated when he changed jobs, to be put back into effect, but he knows that was no excuse for taking drugs without a prescription. He was ashamed of his conduct and knows that taking prescriptions without current and valid prescriptions from his doctors was wrong.

31. Respondent was very forthright and truthful when he was confronted about his conduct at Wal-Mart. He did not try to hide his conduct from the investigating officers. He readily consented to a search of his person, his car, and his home and promptly provided all the drugs that he had diverted to himself. When confronted at Longs Drugs, Respondent again was immediately truthful and promptly admitted his misconduct to the store managers.

32. After the original Accusation was filed in this matter, Respondent voluntarily entered into a written stipulation with Complainant Patricia F. Harris in which he admits the complete truth and accuracy of each and every charge and allegation contained in the original Accusation. This stipulation has been filed in this proceeding.

33. Likewise, after the First Amended Accusation was filed in this matter, Respondent again voluntarily entered into a written stipulation in which he admits the complete truth and accuracy of each and every charge and allegation contained in the First Amended Accusation. This stipulation has also been filed in this proceeding and provides the basis for Factual Findings 2 through 21 and the five Causes for Discipline in paragraphs 22 through 39.

34. Respondent has demonstrated over the past two years that he can continue to work as

a pharmacist without incident. Rather than relying on self-medication, Respondent has continued with his medical treatment for his chronic pain, treatment which has actually provided a better result for him and allowed him to reduce his currently prescribed medications.

35. There is no evidence that Respondent has stolen any drugs or personal property, or that he has self-administered any medication, since June 14, 2004. There is no evidence that Respondent was at any time addicted to any medication he self-administered during the period of time from February through June 2004 which self-administration gave rise to this disciplinary proceeding. There is also no evidence of drug abuse, recreational use of drugs, or the illegal sale of drugs by Respondent at any time.

36. Respondent has a stable family life. He shares joint custody of his son with his former wife, Jennifer Haslam, and his son lives with him 50% of the time. Ms. Haslam wrote a letter dated June 5, 2006, to support Respondent stating that he takes his responsibilities to his son very seriously. She reports that Respondent pays monthly child care costs that helps with rent, food, clothing, music lessons, and swim team costs for their son. In addition to monthly expense payments, Ms. Haslam reports Respondent also buys clothing, toys, and the like when their son is in his care. In describing her former husband, Ms. Haslam notes that Respondent is quite involved with their son and is a good father.

LEGAL CONCLUSIONS

Causes for Discipline

1. Respondent's Conviction of Grand Theft by Employee is a Substantially Related Conviction and is a Cause for Discipline

1. Business and Professions Code section 4301 provides that the Board shall take action against any holder of a license who is guilty of unprofessional conduct. Business and Professions Code section 4301(1) provides that unprofessional conduct for a licensed pharmacist includes the conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under the California Pharmacy Act.

2. Board Regulation 1770 provides that a crime shall be considered substantially related to the qualifications, functions, or duties of a licensee if to a substantial degree it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare.

3. The pharmacist license held by Respondent is subject to discipline under Business and Professions Code sections 4300 and 4301, for unprofessional conduct within the meaning of Business and Professions Code section 4301(1), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacist. Respondent's conviction, on his plea of guilty, of violating Penal Code section 487(b)(3) (grand theft by employee), a misdemeanor, by his diversion of controlled substances from Wal-Mart Pharmacy 2253 evidenced Respondent's unfitness to perform the functions authorized by his pharmacist license in a manner inconsistent with the public's health, safety, and welfare. These conclusions

are based on Factual Findings 1 through 18 and Legal Conclusions 1, 2, and 3.

2. Respondent's Violation of Statutes Regulating Controlled Substances is a Cause for Discipline

4. Business and Professions Code section 4301(j) provides that unprofessional conduct for a licensed pharmacist includes the violation of any statutes of this state regulating controlled substances.

5. Business and Professions 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.

6. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself.

7. Health and Safety Code section 11171 provides that no person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by the state Uniform Controlled Substances Act, Health and Safety Code section 11000, et seq.

8. Health and Safety Code section 11173(a) provides, in pertinent part, that no person shall obtain, or attempt to obtain, controlled substances by fraud, deceit, misrepresentation, or subterfuge.

9. Health and Safety Code section 11350(a) provides, in pertinent part, that every person who possess any controlled substance which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in California, shall be punished by imprisonment in the state prison.

10. Health and Safety Code section 11377(a) provides, in pertinent part, that every person who possess any controlled substance which is a non-narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in California, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison.

11. The pharmacist license held by Respondent is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(j), in that, by diverting and administering to himself controlled substances and dangerous drugs from Wal-Mart Pharmacy 2253 and Longs Drug Stores, as described above, Respondent violated Business and Professions Code section 4060 and Health and Safety Code sections 11170, 11171, 11173(a), 11350(a), and 11377(a), statutes that regulate controlled substances in this state. These conclusions are based on Factual Findings 1 through 18 and 19 through 21 and Legal Conclusions 4 through 11.

3. Respondent's Commission of an Act of Moral Turpitude is a Cause for Discipline

12. Business and Professions Code section 4301(f) provides that unprofessional conduct for a licensed pharmacist includes 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, whether the act is a felony or misdemeanor or not.

13. The pharmacist license held by Respondent is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(f), in that, by diverting controlled substances and dangerous drugs while he was working as a pharmacist at Wal-Mart Pharmacy 2253, as described above, and, by diverting controlled substances and personal property and by falsifying his time cards at Longs Drug Stores, as described above, Respondent committed acts of moral turpitude, dishonesty, fraud, deceit, or corruption. These conclusions are based on Factual Findings 1, 33, and 34, and Legal Conclusions 12 and 13.

4. Respondent's Dangerous Use of Controlled Substances is a Cause for Discipline

14. Business and Professions Code section 4301(h) provides that unprofessional conduct for a licensed pharmacist includes:

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

15. The pharmacist license of Respondent is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(h), in that, Respondent used controlled substances, including drugs that contained hydrocodone, to the extent and in a manner that was dangerous to himself, and to the extent that such use impaired his ability to practice with safety to the public the profession of pharmacy, as described in paragraphs 15, 16, 20, and 21 above. These conclusions are based on Factual Findings 1 through 21 and Legal Conclusions 14 and 15.

5. Respondent's Being On Duty While Under the Influence is a Cause for Discipline

16. Business and Professions Code section 4301(o) provides that unprofessional conduct for a licensed pharmacist includes:

“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.”

17. Business and Professions Code section 4327 provides that "(A)ny person who, while on duty, sells, dispenses, or compounds any drug while under the influence of a dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

18. The pharmacist license of Respondent is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(o), in that, Respondent violated Business and Professions Code section 4327 by selling, dispensing, or compounding drugs while under the influence of dangerous drugs, as described in paragraphs 15 and 21 above. These conclusions are based on Factual Findings 1 through 21 and Legal Conclusions 16, 17, and 18.

Aggravating and Mitigating Factors

19. In aggravation, the violations involved a pattern of unprofessional conduct which resulted in the potential for great harm to the general public and to specific consumers as Respondent practiced his profession. Respondent stole drugs from his employer and self administered those drugs while he was working as a pharmacist. Respondent filled and dispensed prescriptions to consumers while he was under the influence of controlled substances.

20. In mitigation, there did not appear to be any actual harm to any individual during the period of Respondent's misconduct. There is no evidence of any prior disciplinary record with the Board and no prior criminal record for Respondent.

Recovery of Costs of Investigation and Enforcement

21. Business and Professions Code section 125.3 provides that, in any order issued in resolution of a disciplinary proceeding before any board within the Department of Consumer Affairs, 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.

22. The certification of costs of the investigation and prosecution by the Board seeks a total of \$9,003.25, claiming a total of 43.25 hours of time for Inspector's costs and 43.25 hours of time for Attorney General's costs. In view of Respondent's admission of guilt, acceptance of responsibility from the first moment he was confronted about his conduct, and his willingness to enter into stipulations regarding the original Accusation and the First Amended Accusation, these costs are excessive. A total of \$4,000.00 for the Board's investigation and prosecution of this proceeding is a reasonable amount.

23. The certification of costs of prosecution by the California Department of Justice seeks a total of \$10,156.50, claiming a total of 69.5 hours of time incurred by the Attorney General's Office. For the same reasons discussed in the preceding paragraph, these costs are excessive. A total of \$5,000.00 for the Attorney General's costs of prosecution of this proceeding is a reasonable amount.

24. Pursuant to Business and Professions Code section 125.3, cause exists for Respondent

to pay the reasonable costs of investigation in the amount of \$4,000.00. Cause also exists for Respondent to pay the reasonable cost of enforcement in the amount of \$5,000.00. Respondent testified he has substantial financial obligations and it would be equitable for him to pay these amounts over his period of probation.

ORDER

Pharmacist License No. RPH 43678 issued to Ronald Bradley Haslam is revoked; the revocation is stayed and probation is imposed for a period of five (5) years. During the period of probation, respondent shall comply with the following terms and conditions of probation:

1. Actual Suspension.

As part of probation, respondent is suspended from the practice of pharmacy for thirty (30) days beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board.

2. Tolling of Suspension

If respondent leaves California to reside or practice outside this state, for any period exceeding 10 days (including vacation), respondent must notify the board in writing of the dates of departure and return. Periods of residency or practice outside the state - or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period. Respondent shall not practice pharmacy upon returning to this state until notified by the board that the period of suspension has been completed.

3. Obey All Laws.

Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime

discipline, citation, or other administrative action filed by any state and federal agency which involves respondent's pharmacy license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

4. Psychotherapy.

Within thirty (30) day of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a licensed mental health practitioner of respondent's choice. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the board for its prior approval.

Therapy shall be at least once a week unless otherwise determined by the board. Respondent shall provide the therapist with a copy of the board's accusation and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the board. If the treating therapist finds that respondent cannot practice safely or independently, the therapist shall notify the board immediately by telephone and followed up by written letter within three working days.

5. Rehabilitation Program - Pharmacists Recovery Program (PRP)

Within 30 days of the effective date of this decision, respondent shall contact the Pharmacists Recovery Program for evaluation and shall successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the board. The costs for PRP participation shall be borne by the respondent.

If respondent is currently enrolled in the PRP, said participation is now mandatory and is no longer considered a self-referral under Business and Professions Code section 4363, as of the effective date of this decision. Respondent shall successfully participate in and complete his or her current contract and any subsequent addendums with the PRP. Probation shall be automatically extended until respondent successfully completes his or her treatment contract.

Any person terminated from the program shall be automatically suspended upon notice by the board. Respondent may not resume the practice of pharmacy until notified by the board in writing.

6. Random Drug Screening.

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved by the board. The length of time shall be for the entire probation period and the frequency of testing will be determined by the board. At all times respondent shall fully cooperate with the board, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test shall result in the immediate suspension of practice by respondent. Respondent may not resume the practice of pharmacy until notified by the board in writing.

7. Abstain from Drugs and Alcohol Use.

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board, respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the respondent.

8. Supervised Practice.

Respondent shall practice only under the supervision of a pharmacist not on probation with the board. Respondent shall not practice until the supervisor is approved by the board. The supervision shall be, as required by the board, either:

Continuous - 75% to 100% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

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

Within 30 days of the effective date of this decision, respondent shall have his or her supervisor submit notification to the board in writing stating the supervisor has read the decision in case number 2797 and is familiar with the level of supervision as determined by the board.

If respondent changes employment, respondent shall have his or her new supervisor, within 15 days after employment commences, submit notification to the board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 2797 and is familiar with the level of supervision as determined by the board.

Within 10 days of leaving employment, respondent shall notify the board in writing.

9. No Ownership of Premises.

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board.

10. Reporting to the Board.

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

11. Interview with the Board.

Upon receipt of reasonable notice, respondent shall appear in person for interviews with the board upon request at various intervals at a location to be determined by the board. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.

12. Cooperation with Board Staff.

Respondent shall cooperate with the board's inspectional program and in the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to comply shall be considered a violation of probation.

13. Continuing Education.

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board.

14. Notice to Employers.

Respondent shall notify all present and prospective employers of the decision in case number 2767, OAH No. L2005070878, and the terms, conditions and restrictions imposed on respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge and/or owner to report to the board in writing acknowledging the employer has read the decision in case number 2767, OAH No. L2005070878.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the terms and conditions of the decision in case number 2767, OAH No. L2005070878, in advance of the respondent commencing work at each pharmacy.

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

15. No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or Serving as a Consultant.

Respondent shall not supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall respondent be the pharmacist-in-charge of any entity licensed by the board unless otherwise specified in this order.

16. Reimbursement of Board Costs.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$9,000.00. Respondent shall make said payments as follows: In the event Respondent is not financially able to make a single payment of \$9,000.00, he may make periodic payments during his 60 months of probation at the rate of \$150.00 per month.

The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.

17. Probation Monitoring Costs.

Respondent shall pay the costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

18. Status of License.

Respondent shall, at all times while on probation, maintain an active current license with the board, including any period during which suspension or probation is tolled. If respondent's license expires or is cancelled by operation of law or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

19. License Surrender while on Probation/Suspension.

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate

and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

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

20. Notification of Employment/Mailing Address Change.

Respondent shall notify the board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule if known. Respondent shall notify the board in writing within 10 days of a change in name, mailing address or phone number.

21. Tolling of Probation.

Should respondent, regardless of residency, for any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in California, respondent must notify the board in writing within 10 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three years.

"Cessation of practice" means any period of time exceeding 30 days in which respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code.

22. Violation of Probation.

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. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

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

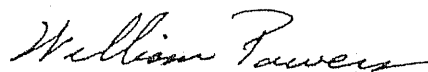
23. Completion of Probation.

Upon successful completion of probation, respondent's license will be fully restored.

This Decision shall become effective on August 31, 2007

IT IS SO ORDERED August 1, 2007.

By:



WILLIAM POWERS

President

State Board of Pharmacy

Department of Consumer Affairs

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8

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 2797

13 RONALD BRADLEY HASLAM
14 5850 Jan Drive
La Mesa, CA 91942

FIRST AMENDED ACCUSATION

15 Pharmacist License No. RPH 43678

16 Respondent.
17

18 The Complainant, Virginia K. Herold, for cause of accusation against RONALD
19 BRADLEY HASLAM, alleges as follows:

20 **PARTIES**

21 1. The Complainant, Virginia K. Herold, is the Interim Executive Officer of
22 the California State Board of Pharmacy (hereinafter the "Board"), and makes this First Amended
23 Accusation solely in her official capacity.

24 2. On or about February 22, 2005, Accusation No. 2797 was filed against
25 Respondent RONALD BRADLEY HASLAM. This First Amended Accusation supersedes and
26 replaces the former Accusation that was filed on February 22, 2005 in this case.

27 3. On or about August 6, 1990, the Board issued Original Pharmacist License
28 Number RPH 43678 to respondent RONALD BRADLEY HASLAM (hereinafter respondent

1 "HASLAM"). At all times material herein, respondent HASLAM was and currently is licensed
2 by the Board as a registered pharmacist. The license expires on February 29, 2008, unless
3 renewed.

4 JURISDICTION

5 4. Complainant brings this First Amended Accusation under the power
6 vested in the Board in Business and Professions Code section 4300(a) to suspend or revoke
7 licenses issued by the Board pursuant to the California Pharmacy Act, Chapter 9, Division 2,
8 section 4000 et seq., of the Business and Professions Code.

9 5. Business and Professions Code section 4005(a) provides that the Board
10 may enact regulations, *inter alia*, for the proper and more effective enforcement of the California
11 Pharmacy Act. The regulations promulgated by the Board appear in the California Code of
12 Regulations, Title 16, Division 16, section 1700 et seq., and shall be referenced herein as the
13 "Board Regulations."

14 FACTS

15 Drugs

16 6. At all times material herein, Lortab was and is a trade name for the generic
17 drug hydrocodone with acetaminophen which is designated by Health and Safety Code section
18 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and
19 Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the
20 relief of pain.

21 7. At all times material herein, Lorcet was and is a trade name for the generic
22 drug hydrocodone with acetaminophen which is designated by Health and Safety Code section
23 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and
24 Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the
25 relief of pain.

26 8. At all times material herein, Norco was and is a trade name for the generic
27 drug hydrocodone with acetaminophen which is designated by Health and Safety Code section
28 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and

1 Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the
2 relief of pain.

3 9. At all time material herein, Vicodin was and is a trade name for the
4 generic drug hydrocodone with acetaminophen which is designated by Health and Safety Code
5 section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business
6 and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the
7 relief of pain.

8 10. At all times material herein, Valium was and is a trade name for the
9 generic drug diazepam which is designated by Health and Safety Code section 11057(d)(3) as a
10 non-narcotic drug and a Schedule IV controlled substance, and by Business and Professions Code
11 section 4022 as a dangerous drug, and is used in the management of anxiety.

12 11. At all times material herein, Phentermine was and is designated by Health
13 and Safety Code section 11057(f)(2) as a Schedule IV controlled substance, and by Business and
14 Professions Code section 4022 as a dangerous drug, and is used as a stimulant.

15 12. At all times material herein, Xanax was and is a trade name for the generic
16 drug alprazolam which is designated by Health and Safety Code section 11057(d)(1) as a
17 Schedule IV controlled substance, and by Business and Professions Code section 4022 as a
18 dangerous drug, and is used in the treatment of anxiety.

19 13. At all times material herein, Trazadone was and is a trade name for the
20 generic drug desyrel which is a dangerous drug within the meaning of Business and Professions
21 Code section 4022, and used for the treatment of depression.

22 14. At all times material herein, Effexor was and is a trade name for the
23 generic drug venlafaxine which is a dangerous drug within the meaning of Business and
24 Professions Code section 4022, and used for the treatment of depression and generalized anxiety.

25 15. At all times material herein, Neurontin was and is a trade name for the
26 generic drug gabapentin which is a dangerous drug within the meaning of Business and
27 Professions Code section 4022, and used for adjunctive therapy in the treatment of partial
28 seizures.

1 16. At all times material herein, Clonidine was and is a trade name for the
2 generic drug catapres which is a dangerous drug within the meaning of Business and Professions
3 Code section 4022, and used for the treatment of hypertension.

4 17. At all times material herein, Viagra was and is a trade name for the generic
5 drug sildenafil which is a dangerous drug within the meaning of Business and Professions Code
6 section 4022, and used for erectile dysfunction.

7 **Wal Mart Pharmacy 2253**

8 18. In February and March, 2004, respondent HASLAM was employed as a
9 pharmacist at Wal Mart Pharmacy 2253, located in El Cajon, California.

10 19. During February 2004, Wal Mart placed a surveillance camera in
11 Pharmacy 2253. The tape from the surveillance camera on February 24, 2004 shows respondent
12 HASLAM selecting a bottle from a shelf within the pharmacy, opening the bottle and consuming
13 medication from the bottle. Complainant is informed and believes, and thereon alleges, that,
14 after consuming the medication as revealed in the surveillance video, respondent, while on duty
15 as a pharmacist, sold, dispensed and compounded drugs at Wal Mart Pharmacy 2253.

16 20. On March 10, 2004, agents from the Bureau of Narcotic Enforcement
17 confronted respondent HASLAM with controlled substances and dangerous drugs that were
18 missing from Wal-Mart Pharmacy 2253. At this time, respondent admitted to the agents that he
19 was ingesting up to eight tablets per day of controlled substances that contained hydrocodone.
20 On the same day, respondent permitted the agents to search his person and residence. In the
21 search, the agents found the following controlled substances and dangerous drugs that respondent
22 diverted from Wal Mart Pharmacy 2253 during February and March, 2004:

| Drug | Amount |
|------------------|---------------|
| Lortab | 34 |
| Lorcet | 13 |
| Norco | 22 |
| Trazadone 100 mg | 12 |
| Trazadone 50 mg | 82 |

| | | |
|---|-------------|------|
| 1 | Phentermine | 1 |
| 2 | Valium | 130+ |
| 3 | Viagra | 11 |
| 4 | Neurontin | 1 |
| 5 | Clonidine | 1 |

6 21. On or about March 17, 2004, in the Superior Court of California, County
7 of San Diego, East County Division, in a case entitled *People v. Ronald Bradley Haslam*, Case
8 No. C238398, respondent was convicted on his plea of guilty of violating Penal Code section
9 487(b)(3) (grand theft by employee), a misdemeanor. The facts and circumstances behind this
10 conviction relate to respondent's diversion of controlled substances from Wal Mart Pharmacy
11 2253, described in paragraphs 19 and 20 hereinabove.

12 22. As punishment for his conviction under Penal Code section 487(b)(3),
13 respondent HASLAM was placed on probation for two years, with 180 days in custody stayed
14 pending successful completion of probation, and ordered to pay a fine of \$500 and a restitution
15 fine of \$100.

Longs Drug Stores

17 23. On or about March 25, 2004, respondent HASLAM completed an
18 Employment Application to work as a pharmacist at Longs Drug Stores. In the Employment
19 Application, respondent failed to reference his employment at Wal Mart Pharmacy 2253.
20 Longs Drug Stores hired respondent to work as a "floater" pharmacist at drug stores in the
21 San Diego area.

22 24. On or about June 14, 2004, managers for Longs Drug Store confronted
23 respondent HASLAM regarding missing personal property, time card discrepancies and missing
24 medications. At that time, respondent admitted that he had taken a cordless phone set and a
25 boom box from Longs Drug Store # 274. These items were subsequently returned. Respondent
26 also admitted that there was a total of 20 minutes on his time cards for which he was not entitled
27 to receive payment. Respondent also admitted that he diverted for his personal use the following
28 controlled substances and dangerous drugs from various Longs Drug Stores where he worked:

| | Drug | Amount |
|---|-------------|---------------|
| 1 | | |
| 2 | Vicodin | 300 |
| 3 | Norco | 140 |
| 4 | Xanax | 35 |
| 5 | Effexor | 24 |

6 25. On June 14, 2004, respondent HASLAM admitted to the managers at
7 Longs Drug Stores that he diverted the above-described medications due to medical conditions
8 that he was experiencing. Complainant is informed and believes, and thereon alleges, that
9 respondent consumed the drugs described in paragraph 24 hereinabove when he was on duty as
10 a pharmacist at Longs Drug Stores, and that he sold, dispensed and compounded drugs while
11 under the influence of such medications.

FIRST CAUSE FOR DISCIPLINE

(Substantially Related Conviction)

14 26. Complainant incorporates herein by this reference the preamble and each
15 of the allegations set forth in paragraphs 1 through 22 hereinabove.

16 27. Business and Professions Code section 4301 provides that the Board shall
17 take action against any holder of a license who is guilty of unprofessional conduct.

18 28. Business and Professions Code section 4301(1) provides that
19 unprofessional conduct for a licensed pharmacist includes the conviction of a crime substantially
20 related to the qualifications, functions and duties of a licensee under the California Pharmacy
21 Act.

22 29. Board Regulation 1770 provides that a crime shall be considered
23 substantially related to the qualifications, functions or duties of a licensee if to a substantial
24 degree it evidences present or potential unfitness of a licensee to perform the functions
25 authorized by his or her license in a manner consistent with the public health, safety, or welfare.

26 30. The pharmacist license held by respondent HASLAM is subject to
27 discipline under Business and Professions Code sections 4300 and 4301, for unprofessional
28 conduct within the meaning of Business and Professions Code section 4301(1), in that,

1 respondent was convicted of a crime that is substantially related to the qualifications, functions
2 and duties of a pharmacist, as described in paragraphs 21 and 22 hereinabove.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Violations of Statutes Regulating Controlled Substances)

5 31. Complainant incorporates herein by this reference the preamble and each
6 of the allegations set forth in paragraphs 1 through 20, 23 through 25 and 27 hereinabove.

7 32. Business and Professions Code section 4060 provides, in pertinent part,
8 that no person shall possess any controlled substance, except that furnished to a person upon the
9 prescription of a physician, dentist, podiatrist, or veterinarian.

10 33. Health and Safety Code section 11170 provides that no person shall
11 prescribe, administer, or furnish a controlled substance for himself.

12 34. Health and Safety Code section 11171 provides that no person shall
13 prescribe, administer, or furnish a controlled substance except under the conditions and in the
14 manner provided by the state Uniform Controlled Substances Act, Health and Safety Code
15 section 11000 et seq.

16 35. Health and Safety Code section 11173(a) provides, in pertinent part, that
17 no person shall obtain, or attempt to obtain controlled substances by fraud, deceit,
18 misrepresentation, or subterfuge.

19 36. Health and Safety Code section 11350(a) provides, in pertinent part, that
20 every person who possesses any controlled substance which is a narcotic drug, unless upon the
21 written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in
22 California, shall be punished by imprisonment in the state prison.

23 37. Health and Safety Code section 11377(a) provides, in pertinent part, that
24 every person who possesses any controlled substance which is a non-narcotic drug, unless upon
25 the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in
26 California, shall be punished by imprisonment in a county jail for a period of not more than one
27 year or in the state prison.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Dangerous Use of Controlled Substances)

3 43. Complainant incorporates herein by this reference the preamble and each
4 of the allegations set forth in paragraphs 1 through 25 and 27 hereinabove.

5 44. Business and Professions Code section 4301(h) provides that
6 unprofessional conduct for a licensed pharmacist includes:

7 The administering to oneself, of any controlled substance,
8 or the use of any dangerous drug or alcoholic beverages to the
9 extent or in a manner as to be dangerous or injurious to oneself, to
10 a person holding a license under this chapter, or to any other person
11 or to the public, or to the extent that the use impairs the ability of
12 the person to conduct with safety to the public the practice
13 authorized by the license.

14 45. The pharmacist license of respondent HASLAM is subject to discipline
15 under Business and Professions Code sections 4300 and 4301, for committing unprofessional
16 conduct within the meaning of Business and Professions Code section 4301(h), in that,
17 respondent used controlled substances, including drugs that contained hydrocodone, to the extent
18 and in a manner that was dangerous to himself, and to the extent that such use impaired his
19 ability to practice with safety to the public the profession of pharmacy, as described in paragraphs
20 19, 20, 24 and 25 hereinabove.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 (On Duty Under the Influence)

23 46. Complainant incorporates herein by this reference the preamble and each
24 of the allegations set forth in paragraphs 1 through 25 and 27 hereinabove.

25 47. Business and Professions Code section 4301(o) provides that
26 unprofessional conduct for a licensed pharmacist includes:

27 Violating or attempting to violate, directly or indirectly, or assisting
28 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.

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1 which provides for the recovery by the Board of the costs of investigation and enforcement of
2 this case against respondent HASLAM, according to proof.

3 **WHEREFORE**, Complainant prays that a hearing be had and that the Board of
4 Pharmacy make its Order:

5 1. Revoking or suspending Pharmacist License Number RPH 43678 issued to
6 respondent RONALD BRADLEY HASLAM.


7 2. Prohibiting respondent RONALD BRADLEY HASLAM from serving as
8 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee,
9 pursuant to the provisions of Business and Professions Code section 4307(a).

10 3. Directing respondent RONALD BRADLEY HASLAM to pay the
11 California State Board of Pharmacy the reasonable costs of the investigation and prosecution of
12 this matter pursuant to Business and Professions Code section 125.3, according to proof.

13 4. Taking such further action as is deemed necessary and proper.

14
15 DATED: 8/8/06

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VIRGINIA K. HEROLD
Interim Executive Officer
California State Board of Pharmacy
Department of consumer Affairs

Attorneys for Complainant