

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

In the Matter of the Accusation Against:

Case No. 3420

JACK KEATES BESWICK

30848 Hill Drive
Exter, CA 93221

Pharmacist License No. RPH 27135

Respondent.

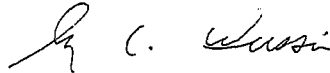
DECISION AND ORDER

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 on June 22, 2011.

It is so ORDERED on May 23, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3420

12 **JACK KEATES BESWICK**
30848 Hill Drive
13 Exter, CA 93221

OAH No. 2010050072

14 **Pharmacist License No. RPH 27135**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney
23 General.

24 2. Respondent Jack Beswick (Respondent) is represented in this proceeding by attorney
25 Joseph Altschule, whose address is: 100 Willow Plaza, Suite 401, Visalia, California 93291.

26 3. On or about August 4, 1970, the Board of Pharmacy issued Pharmacist License No.
27 RPH 27135 to Jack Beswick (Respondent). The Pharmacist License was in full force and effect
28

1 at all times relevant to the charges brought in Accusation No. 3420 and will expire on June 30,
2 2012, unless renewed.

3 JURISDICTION

4 4. Accusation No. 3420 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on April 9, 2010.
7 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 3420 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. 3420. Respondent has also carefully read, fully
12 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
13 Order.

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

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

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 3420.

26 9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
27 to be bound by the Board of Pharmacy (Board)'s probationary terms as set forth in the
28 Disciplinary Order below.

1 As part of probation, Respondent is suspended from the practice of pharmacy for (60) sixty
2 days beginning the effective date of this decision.

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

11 Respondent shall not engage in any activity that requires the professional judgment of a
12 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
13 Respondent shall not perform the duties of a pharmacy technician or a designated representative
14 for any entity licensed by the Board.

15 Subject to the above restrictions, Respondent may continue to own or hold an interest in
16 any licensed premises in which he holds an interest at the time this decision becomes effective
17 unless otherwise specified in this order.

18 Failure to comply with this suspension shall be considered a violation of probation.

19 **2. Obey All Laws**

20 Respondent shall obey all state and federal laws and regulations.

21 Respondent shall report any of the following occurrences to the Board, in writing, within
22 seventy-two (72) hours of such occurrence:

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

- 1 • discipline, citation, or other administrative action filed by any state or federal agency
2 which involves Respondent's Pharmacist license or which is related to the practice of
3 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
4 for any drug, device or controlled substance.

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

6 **3. Report to the Board**

7 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
8 designee. The report shall be made either in person or in writing, as directed. Among other
9 requirements, Respondent shall state in each report under penalty of perjury whether there has
10 been compliance with all the terms and conditions of probation. Failure to submit timely reports
11 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
12 in submission of reports as directed may be added to the total period of probation. Moreover, if
13 the final probation report is not made as directed, probation shall be automatically extended until
14 such time as the final report is made and accepted by the Board.

15 **4. Interview with the Board**

16 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
17 with the Board or its designee, at such intervals and locations as are determined by the Board or
18 its designee. Failure to appear for any scheduled interview without prior notification to Board
19 staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee
20 during the period of probation, shall be considered a violation of probation.

21 **5. Cooperate with Board Staff**

22 Respondent shall cooperate with the Board's inspection program and with the Board's
23 monitoring and investigation of Respondent's compliance with the terms and conditions of his
24 probation. Failure to cooperate shall be considered a violation of probation.

25 **6. Continuing Education**

26 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
27 pharmacist as directed by the Board or its designee.
28

1 7. **Notice to Employers**

2 During the period of probation, Respondent shall notify all present and prospective
3 employers of the decision in case number 3420 and the terms, conditions and restrictions imposed
4 on Respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
8 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
9 individual(s) has/have read the decision in case number 3420, and terms and conditions imposed
10 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
11 supervisor(s) submit timely acknowledgment(s) to the Board.

12 If Respondent works for or is employed by or through a pharmacy employment service,
13 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
14 licensed by the Board of the terms and conditions of the decision in case number 3420 in advance
15 of the Respondent commencing work at each licensed entity. A record of this notification must
16 be provided to the Board upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of Respondent undertaking any new employment by or through a pharmacy
19 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
20 service to report to the Board in writing acknowledging that he has read the decision in case
21 number 3420 and the terms and conditions imposed thereby. It shall be Respondent's
22 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
23 acknowledgment(s) to the Board.

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

27 "Employment" within the meaning of this provision shall include any full-time, part-time,
28 temporary, relief or pharmacy management service as a pharmacist or any position for which a

1 pharmacist license is a requirement or criterion for employment, whether the Respondent is an
2 employee, independent contractor or volunteer.

3 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
4 **Designated Representative-in-Charge, or Serving as a Consultant**

5 During the period of probation, Respondent shall not supervise any intern pharmacist, be
6 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
7 Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
8 unauthorized supervision responsibilities shall be considered a violation of probation.

9 **9. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, Respondent shall pay to the
11 Board its costs of investigation and prosecution in the amount of \$11,858.50. Respondent shall
12 make said payments as approved by the Board.

13 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to
14 reimburse the Board its costs of investigation and prosecution.

15 **10. Probation Monitoring Costs**

16 Respondent shall pay any costs associated with probation monitoring as determined by the
17 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
18 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
19 shall be considered a violation of probation.

20 **11. Status of License**

21 Respondent shall, at all times while on probation, maintain an active, current license with
22 the Board, including any period during which suspension or probation is tolled. Failure to
23 maintain an active, current license shall be considered a violation of probation.

24 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
25 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
26 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
27 probation not previously satisfied.

1 **12. License Surrender While on Probation/Suspension**

2 Following the effective date of this decision, should Respondent cease practice due to
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
4 Respondent may tender his license to the Board for surrender. The Board or its designee shall
5 have the discretion whether to grant the request for surrender or take any other action it deems
6 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
7 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
8 record of discipline and shall become a part of the Respondent's license history with the Board.

9 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license
10 to the Board within ten (10) days of notification by the Board that the surrender is accepted.
11 Respondent may not reapply for any license from the Board for three (3) years from the effective
12 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
13 of the date the application for that license is submitted to the Board, including any outstanding
14 costs.

15 **13. Notification of a Change in Name, Residence Address, Mailing Address or**
16 **Employment**

17 Respondent shall notify the Board in writing within ten (10) days of any change of
18 employment. Said notification shall include the reasons for leaving, the address of the new
19 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
20 shall further notify the Board in writing within ten (10) days of a change in name, residence
21 address, mailing address, or phone number.

22 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
23 phone number(s) shall be considered a violation of probation.

24 **14. Tolling of Probation**

25 Except during periods of suspension, Respondent shall, at all times while on probation, be
26 employed as a pharmacist in California for a minimum of (40) forty hours per calendar month.
27 Any month during which this minimum is not met shall toll the period of probation, i.e., the
28 period of probation shall be extended by one month for each month during which this minimum is

1 not met. During any such period of tolling of probation, Respondent must nonetheless comply
2 with all terms and conditions of probation.

3 Should Respondent, regardless of residency, for any reason (including vacation) cease
4 practicing as a pharmacist for a minimum of (40) forty hours per calendar month in California,
5 Respondent must notify the Board in writing within ten (10) days of the cessation of practice, and
6 must further notify the Board in writing within ten (10) days of the resumption of practice. Any
7 failure to provide such notification(s) shall be considered a violation of probation.

8 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
9 provisions of this condition for a total period, counting consecutive and non-consecutive months,
10 exceeding thirty-six (36) months.

11 "Cessation of practice" means any calendar month during which Respondent is not
12 practicing as a pharmacist for at least 40 hours, as defined by Business and Professions Code
13 section 4000 et seq. "Resumption of practice" means any calendar month during which
14 Respondent is practicing as a pharmacist for at least (40) forty hours as a pharmacist as defined
15 by Business and Professions Code section 4000 et seq.

16 **15. Violation of Probation**

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

22 If Respondent violates probation in any respect, the Board, after giving Respondent notice
23 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
24 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
25 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
26 a petition to revoke probation or an accusation is filed against Respondent during probation, the
27 Board shall have continuing jurisdiction and the period of probation shall be automatically
28 extended until the petition to revoke probation or accusation is heard and decided.

1 **16. Community Services Program**

2 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
3 Board or its designee, for prior approval, a community service program in which Respondent
4 shall provide free health-care related services on a regular basis to a community or charitable
5 facility or agency for at least 200 hours over the five year period of probation. Within thirty (30)
6 days of Board approval thereof, Respondent shall submit documentation to the Board
7 demonstrating commencement of the community service program. A record of this notification
8 must be provided to the Board upon request. Respondent shall report on progress with the
9 community service program in the quarterly reports. Failure to timely submit, commence, or
10 comply with the program shall be considered a violation of probation.

11 **17. No Ownership of Licensed Premises**

12 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
13 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
14 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
15 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)
16 days following the effective date of this decision and shall immediately thereafter provide written
17 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide
18 documentation thereof shall be considered a violation of probation.

19 **18. Supervised Practice**

20 During the period of probation, Respondent shall practice only under the supervision of a
21 licensed pharmacist not on probation with the Board. Upon and after the effective date of this
22 decision, Respondent shall not practice pharmacy and his or her license shall be automatically
23 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,
24 as required by the Board or its designee, either:

25 Continuous – At least 75% of a work week

26 Substantial - At least 50% of a work week

27 Partial - At least 25% of a work week

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

1 Within thirty (30) days of the effective date of this decision, Respondent shall have his or
2 her supervisor submit notification to the Board in writing stating that the supervisor has read the
3 decision in case number 3420 and is familiar with the required level of supervision as determined
4 by the Board or its designee. It shall be the Respondent's responsibility to ensure that his or her
5 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
6 Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
7 acknowledgements to the Board shall be considered a violation of probation.

8 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
9 that his or her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
10 acknowledgement(s) to the Board. Respondent shall have his or her new supervisor, within
11 fifteen (15) days after employment commences, submit notification to the Board in writing stating
12 the direct supervisor and pharmacist-in-charge have read the decision in case number 3420 and is
13 familiar with the level of supervision as determined by the Board. Respondent shall not practice
14 pharmacy and his or her license shall be automatically suspended until the Board or its designee
15 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
16 submit timely acknowledgements to the Board shall be considered a violation of probation.

18 Within ten (10) days of leaving employment, Respondent shall notify the Board in writing.

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

27 ///

1 During suspension, Respondent shall not engage in any activity that requires the
2 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
3 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
4 designated representative for any entity licensed by the Board.

5 Subject to the above restrictions, Respondent may continue to own or hold an interest in
6 any licensed premises in which he or she holds an interest at the time this decision becomes
7 effective unless otherwise specified in this order.

8 Failure to comply with this suspension shall be considered a violation of probation.

9 **19. Ethics Course**

10 Within sixty (60) calendar days of the effective date of this decision, Respondent shall
11 enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its
12 designee. Failure to initiate the course during the first year of probation, and complete it within
13 the second year of probation, is a violation of probation.

14 Respondent shall submit a certificate of completion to the Board or its designee within five
15 days after completing the course.

16 **20. Completion of Probation**

17 Upon written notice by the Board or its designee indicating successful completion of
18 probation, Respondent's license will be fully restored.

19

20 **ACCEPTANCE**


21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorney, Joseph Altschule. I understand the stipulation and the effect it will
23 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
24 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
25 Board of Pharmacy.

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DATED: 3-18-11


JACK BESWICK
Respondent 27135

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I have read and fully discussed with Respondent Jack Beswick the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3-18-2011



Joseph Altschule
Attorney for Respondent

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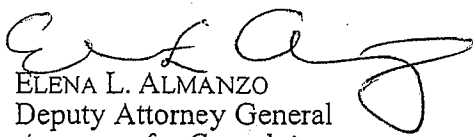
ENDORSEMENT

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

Dated: 3/22/2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General


ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

SA2009101735
10660447.doc

Exhibit A

Accusation No. 3420

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
Deputy Attorney General
4 State Bar No. 131058
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6 Telephone: (916) 322-5524
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
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13 **JACK KEATES BESWICK**
30848 Hill Drive
14 Exter, CA 93221
Pharmacist License No. RPH 27135

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about August 4, 1970, the Board of Pharmacy issued Pharmacist License
21 Number RPH 27135 to Jack Keates Beswick (Respondent). The Pharmacist License was in full
22 force and effect at all times relevant to the charges brought herein and will expire on June 30,
23 2010, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code unless otherwise indicated.
28

1 4. Section 4300 of the Code states:

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

3 "(b) The board shall discipline the holder of any license issued by the board, whose default
4 has been entered or whose case has been heard by the board and found guilty, by any of the
5 following methods:

6 "(1) Suspending judgment.

7 "(2) Placing him or her upon probation.

8 "(3) Suspending his or her right to practice for a period not exceeding one year.

9 "(4) Revoking his or her license.

10 "(5) Taking any other action in relation to disciplining him or her as the board in its
11 discretion may deem proper.

12 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
13 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
14 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
15 may issue the license subject to any terms or conditions not contrary to public policy, including,
16 but not limited to, the following:

17 "(1) Medical or psychiatric evaluation.

18 "(2) Continuing medical or psychiatric treatment.

19 "(3) Restriction of type or circumstances of practice.

20 "(4) Continuing participation in a board-approved rehabilitation program.

21 "(5) Abstention from the use of alcohol or drugs.

22 "(6) Random fluid testing for alcohol or drugs.

23 "(7) Compliance with laws and regulations governing the practice of pharmacy.

24 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
25 certificate of licensure for any violation of the terms and conditions of probation. Upon
26 satisfactory completion of probation, the board shall convert the probationary certificate to a
27 regular certificate, free of conditions.

28

1 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
2 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
3 shall have all the powers granted therein. The action shall be final, except that the propriety of
4 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
5 Civil Procedure."

6 5. Section 4301 of the Code states in pertinent part:

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

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

13 "(g) Knowingly making or signing any certificate or other document that falsely represents
14 the existence or nonexistence of a state of facts.

15 "(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or
16 administering or offering to sell, furnish, give away, or administer any controlled substance to an
17 addict.

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

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

24 "(p) Actions or conduct that would have warranted denial of a license.

25 6. Section 4022 of the Code states: "Dangerous drug" or "dangerous device" means any
26 drug or device unsafe for self-use in humans or animals, and includes the following: (a) Any drug
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1 that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx
2 only," or words of similar import.

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

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

8
9 7. Section 4059 of the Code states: A person may not furnish any dangerous drug,
10 except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
11 naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device,
12 except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
13 naturopathic doctor; pursuant to Section 3640.7.

14 8. Section 4060 of the Code states: "No person shall possess any controlled substance,
15 except that furnished to a person upon the prescription of a physician, dentist, podiatrist,
16 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
17 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
18 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or
19 naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph
20 (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of
21 Section 4052. This section shall not apply to the possession of any controlled substance by a
22 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
23 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician
24 assistant, when in stock in containers correctly labeled with the name and address of the supplier
25 or producer.
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28

1 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
2 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
3 devices."

4 9. Section 4063 of the Code states: No prescription for any dangerous drug or
5 dangerous device may be refilled except upon authorization of the prescriber. The authorization
6 may be given orally or at the time of giving the original prescription. No prescription for any
7 dangerous drug that is a controlled substance may be designated refillable as needed.

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

12 11. Health and Safety Code section 11171 provides: No person shall prescribe,
13 administer, or furnish a controlled substance except under the conditions and in the manner
14 provided by this division.

15 12. Health and Safety Code section 11173 provides: (a) No person shall obtain or
16 attempt to obtain controlled substances, or procure or attempt to procure the administration of or
17 prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or
18 (2) by the concealment of a material fact.

19 (b) No person shall make a false statement in any prescription, order, report, or record, required
20 by this division.

21 (c) No person shall, for the purpose of obtaining controlled substances, falsely assume the title of,
22 or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist,
23 veterinarian, registered nurse, physician's assistant, or other authorized person.

24 (d) No person shall affix any false or forged label to a package or receptacle containing controlled
25 substances.
26
27
28

DRUGS

1
2 13. "Viagra" is a dangerous drug as defined by Business and Professions Code section
3 4022.

4 14. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate also known as
5 dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code
6 section 11056(e)(4), and 500 mg. acetaminophen per tablet.

7 15. "Cialis" is a dangerous drug as defined by Business and Professions Code section
8 4022.

9 16. "Vaniqa" is a dangerous drug as defined by Business and Professions Code section
10 4022.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

12
13
14 17. Respondent is subject to disciplinary action under section Business and Professions
15 Code section 4301 for unprofessional conduct in that on or about June 11, 2008, respondent
16 attempted to leave Longs Store #500, located at 1455 E Noble Avenue, Visalia, California, with
17 a prescription for 11 tablets of Viagra 100 mg without paying for said medication.¹

SECOND CAUSE FOR DISCIPLINE

(Unlawful Possession)

18
19
20 18. Respondent is subject to disciplinary action under sections 4301 (j) and (o) in
21 conjunction with 4060 for unlawful possession of a controlled substance. The circumstances are
22 as follows:

23 19. On or about June 6, 2008, respondent refilled prescription number RX 633549 for
24 Hydrocodone/APAP 5/500 for himself without authorization from a lawful prescriber.
25

26
27 ¹ An Audit was conducted at the Longs #500 which showed a loss of 72 Viagra 100 mg.
28 tablets over the preceding seven months.

1 THIRD CAUSE FOR DISCIPLINE

2 (Unlawful Furnishing)

3 20. Respondent is subject to disciplinary action under sections 4059 and 4301 (h) in
4 conjunction with Health and Safety Code section 11171 in that he furnished a controlled
5 substance without a valid prescription therefor. The circumstances are that: on or about June 6,
6 2008, respondent refilled prescription number RX 633549 for Hydrocodone/APAP 5/500 for
7 himself without authorization from a lawful prescriber.

8 FOURTH CAUSE FOR DISCIPLINE

9 (Unauthorized Prescriptions)

10 21. Respondent is subject to disciplinary action under section 4063 in that from
11 November 15, 2007 until June 6, 2008, respondent admitted refilling medications, he previously
12 received as samples from his medical provider, without obtaining a lawful prescription from a
13 prescriber or authorization from his medical provider for the refills.

14 FIFTH CAUSE FOR DISCIPLINE

15 (Obtained Controlled Substances through Fraud)

16 22. Respondent is subject to disciplinary action under section 4301 (g) and Health and
17 Safety Code section 11173 (a) and (b) in that he obtained controlled substances through fraud.
18 The circumstances are as follows:

19 23. On or about June 6, 2008, respondent refilled prescription number RX 633549 for
20 Hydrocodone/APAP 5/500 for himself without authorization from a lawful prescriber.

21 24. From March 17, 2008 to June 6, 2008, respondent admitted filling prescriptions for
22 dangerous drugs he had received as samples without first obtaining a prescription therefor.

23 25. On or about January 28, 2008, respondent wrote a prescription for himself for
24 Vaniqa 13.9 %, a dangerous drug, without authorization from a prescriber. Respondent admitted
25 that he obtained the prescription for his girlfriend.

26 DISCIPLINE CONSIDERATIONS

27 26. To determine the degree of discipline, if any, to be imposed on respondent,
28 Complainant alleges that on or about November 5, 1996, in a prior disciplinary action entitled "In

1 the Matter of the Accusation Against Jack Keates Beswick before the Board of Pharmacy, in Case
2 Number 1837", respondent's license was revoked, said revocation was stayed, and he was placed
3 on five years probation for convictions of two counts of forging prescriptions and five counts of
4 prescribing, administering or furnishing controlled substances for himself. Respondent also
5 admitted to filling prescriptions for Alprazolam for his girlfriend without authorization. That
6 decision is now final and is incorporated by reference as if fully set forth. A copy of the decision
7 is attached as Exhibit A.

8 PRAYER

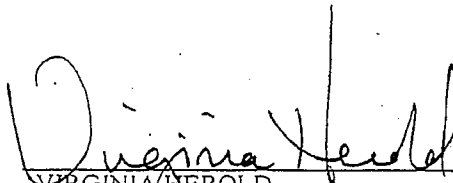
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Pharmacy issue a decision:

11 1. Revoking or suspending Pharmacist License Number RPH 27135, issued to Jack
12 Keates Beswick.

13 2. Ordering Jack Keates Beswick to pay the Board of Pharmacy the reasonable costs of
14 the investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3;

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

17
18
19 DATED: 3/30/10



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

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EXHIBIT A

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

In the Matter of the Accusation Against:)

JACK KEATES BESWICK)
P. O. Box 1196)
Tulare, CA 93274)

License No. RPH 27135,)

Respondent.)

CASE NO. 1837

OAH No. L-9511131

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This Decision shall become effective on November 5, 1996.

IT IS SO ORDERED on October 7, 1996.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

BY: Darlene F. Fujimoto
DARLENE F. FUJIMOTO
Board President

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

In the Matter of the Accusation)	
Against:)	No. 1837
)	
JACK KEATES BESWICK)	OAH NO. N-9511131
P.O. Box 1196)	
Tulare, California 93274)	
Certificate No. RPH 27135)	
)	
Respondent.)	

PROPOSED DECISION

On July 16, 1996, in Fresno, California, M. Amanda Behe, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

June LaVerne Long, Deputy Attorney General, represented the Board of Pharmacy of the State of California.

Joseph Altschule, Attorney at Law, represented respondent.

Jurisdictional documents were received, the stipulation of the parties was entered, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Patricia F. Harris is the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, State of California, and filed the Accusation in her official capacity.

II

On August 4, 1970, the Board issued Original Licentiate Number RPH 27135 to respondent Jack Keates Beswick (hereinafter

"respondent"). Said license is in full force and effect until June 30, 1998. Respondent's official address of record is P.O. Box 1196, Tulare, California, 93274.

III

Section 4350 of the Business and Professions Code (hereinafter "the Code") provides that every certificate, license, permit, registration, or exemption issued may be suspended or revoked.

Section 4350.5 of the Code provides that the Board shall take disciplinary action against the holder of a license or permit for unprofessional conduct.

Section 4227, subdivision (a), of the Code provides that no person shall furnish any dangerous drug, except upon the prescription of a physician and surgeon, dentist, podiatrist or a veterinarian.

Section 4229 provides that no prescription for any dangerous drug or device may be refilled except upon authorization of the prescriber which may be given orally or at the time of giving the original prescription. No prescription for any dangerous drug which is a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code may be designated refillable as needed.

Section 4230 of the Code provides that no person shall possess any controlled substance except that furnished to such person upon the prescription of a physician.

Section 4353 of the Code provides in pertinent part that the administering to himself of any controlled substance, or the use of any dangerous drugs specified by Section 4211 to the extent or in such a manner as to be dangerous or injurious to a person holding a certificate or license, or to any other person or to the public, or to the extent that such use impairs the ability of such person to conduct with safety to the public the practice authorized by such certificate or license or the conviction of more than one misdemeanor involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof constitutes unprofessional conduct.

Section 4354 of the code provides in pertinent part that the conviction of a crime substantially related to the qualifications, functions, and duties of a license under this chapter constitutes unprofessional conduct within the meaning of this chapter.

Section 4390, subdivision (a), of the code provides that every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of a forgery.

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

Section 11173, subdivision (a) provides that no person shall obtain or attempt to obtain controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or 2) by the concealment of a material fact.

Section 11180 of the Health and Safety Code provides that no person shall obtain or possess a controlled substance obtained by a prescription that does not comply with this division.

IV

At all times mentioned in the subject Accusation:

A. Fiorinal (butalbital, aspirin, caffeine), Fioricet (butalbital, acetaminophen, caffeine) are Schedule III controlled substances pursuant to section 11056 of the Health and Safety Code and dangerous drugs, pursuant to section 4211 of the Code.

B. Xanax (alprazolam), Valium (diazepam), Darvocet-N100 (propoxyphene napsalate and acetaminophen), are Schedule IV controlled substances pursuant to section 11057 of the Health and Safety Code and dangerous drugs pursuant to section 4211 of the Code.

C. Yocon (yohimbine), Cotrim DS (trimethoprim and sulfamethoxazole), Hytrin (terazosin), Proscar (finasteride), Cipro (ciprofloxacin), Prozac (fluoxetine), yoloft (sertraline), Zovirax (acyclovir), Nicoderm Patch (nicotine transdermal system), and Desyrel (trazadone) are dangerous drugs pursuant to section 4211 of the Code.

V

Section 125.3 of the Code provides 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.

VI

The parties stipulated that respondent is subject to discipline for unprofessional conduct within the meaning of section 4350.5 of the Code in that he has violated sections 4227 subdivision (a), 4229, 4230, 4353, 4354, 4390 subdivision (a), of the Code and sections 11170, 11173 subdivisions (a)(1) and (2), and 11180 of the Health and Safety Code as follows:

A. Respondent admitted that while he was on duty as a relief pharmacist between July 1, 1994 and September 4, 1994, at Longs Drug Store #181 at 1019 East Prosperity Avenue in Tulare, California, he either consumed or possessed the following controlled substances or dangerous drugs without a prescription as follows:

<u>NAME</u>	<u>AMOUNT</u>	<u>RETAIL</u>
Yohimbine	100	23.40
Contrin DS	30	13.35
Hytrin 5mg	90	104.30
Proscar 5mg	60	122.10
Cipro 5mg	10	40.30
Alprazolam .25mg	160	39.75
Xanax .25mg	50	35.00
Yocon	10	8.00
Alprazolam .50mg	100	31.75
Xanax .5mg	30	27.40
Valium 5mg	20	7.30
Fiorinal (generic)	400	30.75
Fioricet	10	9.05
Proscar 20mg	60	53.95
Zoloft 50mg	2	8.30
Zovirax 800mg	1	8.10
Nicoderm Patches	2	16.48
Nicorette (gum)	2 boxes	75.30
Desyrel 50mg	100	30.75
Desyrel 150mg	30	64.00
Darvocet-N 100mg	100	28.35

Respondent took the above named drugs from the pharmacy stock without authorization therefor, without making payment therefor, and without a written prescription therefor. Said drugs were for his personal use.

VII

The parties stipulated that respondent is subject to discipline pursuant to sections 4350.5, 4230 and 4353 of the Code and section 11170 of the Health and Safety Code in that he

prescribed, furnished and possessed, and administered to himself narcotics and dangerous drugs.

VIII

The parties stipulated that on June 14, 1995 in the Tulare County Municipal Court District, Tulare Division, in a proceeding entitled "State of California vs. Beswick, Jack Keates, Case Number C-0048443-A", respondent pleaded nolo contendere to seven counts of violating the Business and Professions Code, i.e. two counts of forging prescriptions and five counts of prescribing, administering or furnishing controlled substances for himself.

IX

The parties stipulated that respondent is subject to discipline pursuant to sections 4350.5 and 4354 of the Code in that the admissions set forth above are directly related to the qualifications, functions and duties of a licensed pharmacist who has been trained and is knowledgeable about self-abuse of controlled substances and dangerous drugs, and who is aware that a prescription is required to dispense controlled substances and dangerous drugs.

X

The parties stipulated that on August 8, 1994 and August 17, 1994, respondent filled prescriptions for Alprazolam for his girlfriend, C. Forbes. Said prescription was not authorized and the label was duplicated from a June 29, 1994 prescription for C. Forbes, which respondent later threw away to conceal his acts.

The parties stipulated that respondent is subject to discipline pursuant to sections 4350.5 and 4229 of the Code and section 11180 of the Health and Safety Code obtaining a controlled substance and dangerous drug without authorization for a refill of the prescription.

The parties stipulated that respondent is subject to discipline pursuant to sections 4350.5, 4390 and 11173, subdivisions (a)(1) and (2) of the Code in that on two occasions, he forged prescriptions for alprazolam for his girlfriend with the knowledge that said prescription was not refillable. Respondent deliberately and fraudulently represented that the prescription was valid by filling said prescription and concealing the fact that the prescription was only valid until June 29, 1994.

DETERMINATION OF ISSUES

The parties stipulated that grounds for discipline of respondent's license was established pursuant to the stipulations set forth above.

ORDER

The parties stipulated that Pharmacist's License number RPH 27135 issued to respondent Jack Keates Beswick is revoked based on those admissions. That revocation is stayed and respondent is placed on five years probation on the following terms and conditions:

1. Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.
2. Respondent shall report to the Board or its designee quarterly. Said report shall be either in person or in writing, as directed. Should the final probation report not be made as directed, the period of probation shall be extended until such time as the final report is made.
3. Respondent shall submit to peer review as deemed necessary by the Board.
4. Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.
5. Respondent shall notify all present and prospective employers of this Decision and its terms, conditions and restrictions.

Within 30 days of the effective date of this Decision, and within 15 days of respondent undertaking new employment, respondent shall cause respondent's employer to acknowledge to the Board in writing that the employer has read this Decision.

Should respondent work for or be employed by or through a pharmacy employment service, it shall be the obligation of the respondent to ensure the pharmacy at which respondent is to be employed or used of the fact and terms of this Decision in advance of the respondent commencing work at the pharmacy.

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

6. Respondent shall not supervise any registered intern and shall not perform any of the duties of a preceptor, nor shall respondent be the pharmacist-in-charge of any pharmacy licensed by the Board.
7. Should respondent leave California to reside or practice outside this state, respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.
8. Should respondent leave California to reside or practice outside this state, or for any period exceeding 30 days, 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 30 days, shall not apply to the reduction of the suspension period.

Respondent shall not practice pharmacy upon returning to this state until notification by the Board the period of suspension has been completed.
9. Should respondent violate 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 is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
10. Upon successful completion of probation, respondent's certificate will be fully restored.
11. 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.

Should respondent's certificate, by operation of law or otherwise, expire, upon renewal or reinstatement, respondent's certificate shall be subject to any and all terms of this probation not previously satisfied.

12. As part of probation, respondent is suspended from the practice of pharmacy for ninety days beginning the effective date of this Decision.

During said suspension, respondent shall not enter any pharmacy prescription area or any portion of the licensed premises of a wholesaler, manufacturer or any other distributor of drugs which is licensed by the Board and where dangerous drugs or controlled substances are maintained. Respondent shall not practice pharmacy or do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, be a consultant to or have access to or control over the ordering, manufacturing or dispensation of dangerous drugs or controlled substances for anyone or any entity licensed by the Board.


13. Respondent shall participate in and complete the Impaired Pharmacists Program, and his probation will be extended until respondent successfully completes his treatment contract. The costs for IPP participation shall be borne by the respondent.
14. Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon the request of the Board or its designee.
15. Respondent shall practice only under the supervision of a pharmacist not on probation to the Board. The supervision directed may be continuous supervision, substantial supervision, partial supervision, or supervision by daily review as deemed necessary by the Board.

Within 30 days of the effective date of this Decision, respondent shall have respondent's supervisor submit a report to the Board in writing stating the supervisor has read the Decision in this matter. Should respondent change employment,

respondent shall have respondent's new supervisor, within 15 days after employment commences, submit a report to the Board in writing stating the supervisor has read the Decision in this matter.

16. Respondent shall not have any legal or beneficial interest in any business, firm, partnership, or corporation currently or hereinafter licensed by the Board and shall not own any pharmacy.
17. Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$6,610.25 on payments over the period of probation pursuant to a plan approved by the Board or its probation supervisor. Should any part of cost recovery not be paid, probation shall be extended until said amount is paid.

Dated: August 19, 1996


M. AMANDA BEHE,
Administrative Law Judge
Office of Administrative Hearings

1 DANIEL E. LUNGREN, Attorney General
 of the State of California
 2 JOEL S. PRIMES, Supervising
 Deputy Attorney General
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 6

7 Attorneys for Complainant

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

11	In the Matter of the Accusation Against:)	NO. 1837
12	JACK KEATES BESWICK)	<u>ACCUSATION</u>
13	P.O. Box 1196)	
14	Tulare, California 93274)	
15	Licentiate Certificate No. RPH 27135)	
16	Respondent.)	

17 Patricia F. Harris, for causes for discipline, alleges:

18 1. Complainant Patricia F. Harris makes and files this accusation in her
 19 official capacity as Executive Officer, Board of Pharmacy (hereinafter the "Board"),
 20 Department of Consumer Affairs, State of California.

21 2. On August 4, 1970, the Board issued Original Licentiate Number RPH
 22 27135 to respondent Jack Keates Beswick (hereinafter "respondent"). Said license is in full
 23 force and effect until June 30, 1996. Respondent's official address of record is P.O. Box
 24 1196, Tulare, California, 93274.

25 3. Section 4350 of the Business and Professions Code (hereinafter "the
 26 Code") provides that every certificate, license, permit, registration, or exemption issued may
 27 be suspended or revoked.

1 4. Section 4350.5 of the Code provides that the Board shall take
2 disciplinary action against the holder of a license or permit for unprofessional conduct.

3 5. Section 4227, subdivision (a), of the Code provides that no person shall
4 furnish any dangerous drug, except upon the prescription of a physician and surgeon, dentist,
5 podiatrist or a veterinarian.

6 6. Section 4229 provides that no prescription for any dangerous drug or
7 device may be refilled except upon authorization of the prescriber which may be given orally
8 or at the time of giving the original prescription. No prescription for any dangerous drug
9 which is a controlled substance as defined in Division 10 (commencing with Section 11000)
10 of the Health and Safety Code may be designated refillable as needed.

11 7. Section 4230 of the Code provides that no person shall possess any
12 controlled substance except that furnished to such person upon the prescription of a
13 physician.

14 8. Section 4353 of the Code provides in pertinent part that the
15 administering to himself of any controlled substance, or the use of any dangerous drugs
16 specified by Section 4211 to the extent or in such a manner as to be dangerous or injurious
17 to a person holding a certificate or license, or to any other person or to the public, or to the
18 extent that such use impairs the ability of such person to conduct with safety to the public
19 the practice authorized by such certificate or license or the conviction of more than one
20 misdemeanor involving the use, consumption, or self-administration of any of the substances
21 referred to in this section, or any combination thereof constitutes unprofessional conduct.

22 9. Section 4354 of the code provides in pertinent part that the conviction
23 of a crime substantially related to the qualifications, functions, and duties of a license under
24 this chapter constitutes unprofessional conduct within the meaning of this chapter.

25 10. Section 4390, subdivision (a), of the code provides that every person
26 who signs the name of another, or of a fictitious person, or falsely makes, alters, forges,
27

1 utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is
2 guilty of a forgery.

3 11. Section 11170 of the Health and Safety Code provides that no person
4 shall prescribe, administer, or furnish a controlled substance for himself.

5 12. Section 11173, subdivision (a) provides that no person shall obtain or
6 attempt to obtain controlled substances, (1) by fraud, deceit, misrepresentation, or
7 subterfuge; or 2) by the concealment of a material fact.

8 13. Section 11180 of the Health and Safety Code provides that no person
9 shall obtain or possess a controlled substance obtained by a prescription that does not comply
10 with this division.

11 14. At all times mentioned herein:

12 A. Fiorinal (butalbital, aspirin, caffeine), Fioricet (butalbital,
13 acetaminophen, caffeine) are Schedule III controlled substances pursuant to section 11056
14 of the Health and Safety Code and dangerous drugs, pursuant to section 4211 of the Code.

15 B. Xanax (alprazolam), Valium (diazepam), Darvocet-N100
16 (propoxyphene napsalate and acetaminophen), are Schedule IV controlled substances pursuant
17 to section 11057 of the Health and Safety Code and dangerous drugs pursuant to section 4211
18 of the Code.

19 C. Yocon (yohimbine), Cotrim DS (trimethoprim and
20 sulfamethoxazole), Hytrin (terazosin), Proscar (finasteride), Cipro (ciprofloxacin), Prozac
21 (fluoxetine), yoloft (sertraline), Zovirax (acyclovir), Nicoderm Patch (nicotine transdermal
22 system), and Desyrel (trazadone) are dangerous drugs pursuant to section 4211 of the Code.

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

27

1 16. Respondent is subject to discipline for unprofessional conduct within the
2 meaning of section 4350.5 of the Code in that he has violated sections 4227 subdivision (a),
3 4229, 4230, 4353, 4354, 4390 subdivision (a), of the Code and sections 11170, 11173
4 subdivisions (a)(1) and (2), and 11180 of the Health and Safety Code as more particularly
5 alleged as follows:

6 A. Respondent admitted that while he was on duty as a relief
7 pharmacist between July 1, 1994 and September 4, 1994, at Longs Drug Store #181 at 1019
8 East Prosperity Avenue in Tulare, California, he either consumed or possessed the following
9 controlled substances or dangerous drugs without a prescription as follows:

10	<u>NAME</u>	<u>AMOUNT</u>	<u>RETAIL</u>
11	Yohimbine	100	23.40
12	Contrim DS	30	13.35
13	Hytrin 5mg	90	104.30
14	Proscar 5mg	60	122.10
15	Cipro 5mg	10	40.30
16	Alprazolam .25mg	160	39.75
17	Xanax .25mg	50	35.00
18	Yocon	10	8.00
19	Alprazolam .50mg	100	31.75
20	Xanax .5mg	30	27.40
21	Valium 5mg	20	7.30
22	Fiorinal (generic)	400	30.75
23	Fioricet	10	9.05
24	Proscar 20 mg	60	53.95
25	Zoloft 50mg	2	8.30
26	Zovirax 800mg	1	8.10
27	Nicoderm Patches	2	16.48

1	Nicorette (gum)	2 boxes	75.30
2	Desyrel 50mg	100	30.75
3	Desyrel 150mg	30	64.00
4	Darvocet-N 100mg	100	28.35

5 Respondent took the above named drugs from the pharmacy stock without
6 authorization therefor, without making payment therefor, and without a written prescription
7 therefor. Said drugs were for his personal use.

8 1. Respondent is subject to discipline pursuant to sections 4350.5,
9 4230 and 4353 of the code and section 11170 of the Health and Safety Code in that he
10 prescribed, furnished and possessed, and administered to himself narcotics and dangerous
11 drugs as all such is more specifically set forth in Paragraph 16A and is incorporated herein
12 by reference as though set forth in full at this point.

13 B. On June 14, 1995 in the Tulare County Municipal Court District,
14 Tulare Division, in a proceeding entitled *State of California vs. Beswick, Jack Keates*, Case
15 Number C-0048443-A, respondent pleaded nolo contendere to seven counts of violating the
16 Business and Professions Code: 2 counts of section 4390 for forging prescriptions and five
17 counts of prescribing, administering or furnishing controlled substances for himself.

18 1. Respondent is subject to discipline pursuant to sections 4350.5
19 and 4354 of the Code in that said acts as set forth in Paragraph 16B hereinabove are directly
20 related to the qualifications, functions and duties of a licensed pharmacist who has been
21 trained and is knowledgeable about self-abuse of controlled substances and dangerous drugs,
22 and who is aware that a prescription is required to dispense controlled substances and
23 dangerous drugs. Paragraph 16B is incorporated herein by reference as though set forth in
24 full at this point.

25 C. On August 8, 1994 and August 17, 1994, respondent filled
26 prescriptions for Alprazolam for his girlfriend, C. Forbes. Said prescription was not
27

1 authorized and the label was duplicated from a June 29, 1994 prescription for C. Forbes,
2 which respondent later threw away to conceal his acts.

3 1. Respondent is subject to discipline pursuant to sections 4350.5
4 and 4229 of the Code and section 11180 of the Health and Safety Code obtaining a controlled
5 substance and dangerous drug without authorization for a refill of the prescription as all such
6 is set forth in Paragraph 16C and is incorporated herein by reference as though set forth in
7 full at this point.

8 2. Respondent is subject to discipline pursuant to sections 4350.5,
9 4390 and 11173, subdivisions (a)(1) and (2) of the Code in that on two occasions, he forged
10 prescriptions for alprazolam for his girlfriend with the knowledge that said prescription was
11 not refillable. Respondent deliberately and fraudulently represented that the prescription was
12 valid by filling said prescription and concealing the fact that the prescription was only valid
13 until June 29, 1994, as all such is set forth in Paragraph 16C and is incorporated herein by
14 reference as though set forth in full at this point.

15 WHEREFORE, complainant prays that the Board hold a hearing on the matters
16 alleged herein and following said hearing issue a decision:

- 17 1. Suspending or revoking Pharmacist's License number RPH 27135 issued
- 18 to respondent Jack Keates Beswick;
- 19 2. Ordering respondents to pay to the Board the reasonable costs of the
- 20 investigation and prosecution of the case according to proof of the hearing pursuant to section
- 21 125.3 of the Code; and
- 22 3. Taking such other action as the Board in its discretion deems proper.

24 DATED: 9/15/95

P. F. Harris
 PATRICIA F. HARRIS, Executive Officer
 Board of Pharmacy
 Department of Consumer Affairs
 State of California
 Complainant

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