

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

RITE AID CORPORATION
(Permit No. 9804)

)
)
)
)
)
)

CONSENT ORDER

THIS MATTER came on to be considered at a prehearing conference (hereinafter, "Conference") before a member of the North Carolina Board of Pharmacy (hereinafter, "Board") pursuant to 21 N.C.A.C. 46 .2008. This Conference was scheduled for March 8, 2010, and, after appropriate notice, was heard on that day by Board member Rebecca Chater at the offices of the Board. Respondent Rite Aid Corporation (Permit No. 9804) (hereinafter, "Respondent" or "Rite Aid") was present and represented by counsel Anna Baird Choi and its corporate representatives. Counsel Clinton R. Pinyan represented the Board. Members of the Board's staff were also present at the Conference.

Respondent has agreed to waive a formal hearing in the above-referenced matter. Both parties stipulate and agree to the findings of fact and conclusions of law recited herein and to the order of discipline imposed. By its consent, Respondent also stipulates that it waives its right to appeal this Consent Order or challenge in any way the sufficiency of the findings of this Order. Based upon the consent of the parties, the Board hereby enters the following:

FINDINGS OF FACT

1. The Board is a body duly organized under the laws of North Carolina and is the proper body for this proceeding under the authority granted it in Chapter 90 of the General Statutes of North Carolina, and the rules and regulations promulgated thereunder.

2. Respondent is, and was at all relevant times referred to herein, located at 4133 Park Road, Charlotte, North Carolina, and the holder of permit number 9804. Respondent is and was, at all relevant times referenced to herein, subject to the rules and regulations of the Board and the laws of the State of North Carolina.

3. On September 17, 2008, October 15, 2008, November 18, 2008 and December 16, 2008, Rite Aid dispensed fluoxetine to a patient who also had a prescription for Celexa, resulting in the improper dispensing of duplicate prescriptions of selective serotonin reuptake inhibitors ("SSRIs").

4. Rite Aid did not maintain required records of counseling performed on September 17, 2008.

5. On all four dates when the fluoxetine was dispensed, Rite Aid permitted more than two technicians to work under the supervision of one pharmacist without Board authorization, which contributed to an increased risk of patient harm:

- a. One pharmacist supervised more than two technicians from approximately noon to 4:00 p.m. on September 17, 2008;
- b. One pharmacist supervised more than two technicians from approximately noon to 5:00 p.m. on October 15, 2008;
- c. One pharmacist supervised more than two technicians from approximately 11:15 a.m. to 4:00 p.m. on November 18, 2008; and
- d. One pharmacist supervised more than two technicians from approximately 11:30 to 4:00 p.m. on December 16, 2008.

CONCLUSIONS OF LAW

Based on the above findings, the Board concludes as a matter of law:

1. Respondent violated N.C. Gen. Stat. §§ 90-85.15A(c), 90-85.38(b) and 90-85.40(f), and 21 N.C.A.C. 46 .1802(a), 46 .1804 and 46 .2504.
2. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on its permit under N.C. Gen. Stat. § 90-85.38.

Based upon the foregoing, and with the consent of the parties, IT IS THEREFORE ORDERED that the permit of Respondent Rite Aid Corporation, Permit No. 9804, is hereby REPRIMANDED.

This the 20th day of April, 2010.

NORTH CAROLINA BOARD OF PHARMACY

By:



Jack W. Campbell, IV
Executive Director

Rite Aid Corporation, Permit No. 9804, has full knowledge that it has the right to a formal hearing, at which it would have the right to be represented at its expense by counsel, in this matter. The undersigned freely, knowingly and voluntarily waives such right by entering into this Consent Order.

The undersigned understands and agrees that by entering into this Consent Order, it certifies that it has read the foregoing Consent Order and that it voluntarily consents to the terms and conditions set forth therein and relinquishes any right to judicial review of Board actions which may be taken concerning this matter.

The undersigned further understands that should it violate the terms and conditions of this Consent Order, the Board may take additional disciplinary action.

The undersigned understands and agrees that this Consent Order will not become effective unless and until approved by the Board.

The undersigned understands that it has the right to have counsel of its choice review and advise him with respect to its rights and this Consent Order, and represents that it enters this Consent Order after consultation with its counsel or after knowingly and voluntarily choosing not to consult with counsel. The undersigned represents and warrants that the undersigned agent is duly authorized to execute the Consent Order on behalf of Rite Aid Corporation.

CONSENTED TO BY: RITE AID CORPORATION (Permit No. 9804)

By: M. A. Rodgerson Date 3/29/10

Pennsylvania
~~NORTH CAROLINA~~
Cumberland
COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that the following person(s) personally appeared before me this day, and each acknowledged the due execution of the foregoing document:

Date: 3/29/10

[Signature]
Notary Public

My commission expires: _____

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
DEBORAH A. HURLEY, Notary Public
East Pennsboro Twp., Cumberland County
My Commission Expires October 7, 2011

OBJECTED TO BY: RITE AID CORPORATION (Permit No. 9804)

By: _____ Date _____