

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Walgreens Pharmacy )  
(Permit No. 8258) ) CONSENT ORDER  
)

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46 .2008 on August 22, 2006. Board member Stan Haywood presided. Also present at the conference were the following:

- Holly Price, Board Investigator;
- Jay Campbell, Executive Director of the Board;
- Karen Matthew, Director of Investigations and Inspections;
- Anna Baird Choi, Counsel for the Board;
- Helen Fong, RPh.;
- Dwayne Pinon;
- Blake Keller, District Pharmacy Supervisor;
- Tammy Duzan, RPh.; and
- Kristen King, Attorney for Duzan and Walgreens.

Based upon the record in this proceeding and the statements and materials presented at the conference, the Board makes the following:

FINDINGS OF FACT

1. Walgreens Pharmacy ("Respondent") is the holder of permit number 8258 and is located at 2500 E. Franklin Blvd, Gastonia, North Carolina. At all relevant times, Tammy Duzan, RPh., was employed by Respondent as a staff pharmacist.
2. On December 6, 2005, the Board received a complaint from Gaston Memorial Hospital that alleged that an infant patient received 10mg/10ml Lasix on a prescription order for 2mg/1ml Lasix. The patient took the incorrect dosage of Lasix for approximately five to seven days.

3. The investigation produced evidence to show that on or about November 24, 2005, RPh. Duzan dispensed Lasix 10mg/10ml on a prescription order for Lasix 2mg/1ml for an infant patient.
4. During the course of her investigation and upon review of records maintained at Respondent pharmacy, the Board Investigator was unable to document that the patient's parent had been offered counseling at the time the medication was picked up. However at the hearing, counsel for Respondent provided the Board with documentation which appeared to show that the patient's parent had accepted counseling.
5. During the course of her investigation, the Board Investigator documented that two pharmacy employees who were not registered as a technician by the Board were performing pharmacy technician duties at Respondent pharmacy.
6. On December 20, 2005 and during the course of her investigation, the Board Investigator requested information from Dennis Marcel, the Executive Assistant Store Manager, in order to determine the volume of prescriptions filled by Respondent on a monthly basis. Mr. Marcel was unable to locate this information at the time of the request. However, this information was received by the Board on January 8, 2006.
7. On December 20, 2005 and during the course of her investigation, the Board Investigator requested information from Mr. Marcel regarding the pharmacy staff schedules. The Investigator repeated her request to Mr. Marcel on March 15, 2006, at which time Mr. Marcel informed the Investigator that Greg McCetrick, the Pharmacy Supervisor, had told Mr. Marcel previously that he would handle the request. Mr. Marcel suggested to the Investigator that she contact Mr. McCetrick for the records. As of the date of the conference, the Investigator had not received these records.

8. At the hearing, representatives of Respondent informed the Board member that Respondent was committed to future compliance with the Board's requests.

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

CONCLUSIONS OF LAW

1. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on its permit under G.S. 90-85.38.
2. Respondent violated the following statutes and rules when one of its pharmacists dispensed and delivered the wrong medication. Additionally, Respondent violated the following rules and statutes when it did not comply with the Board's request for records:
  - a. G.S. 90-85.38(a)(6), (7) and (9);
  - b. G.S. 90-85.40;
  - c. G.S. 90-85.15A;
  - d. 90-85.47;
  - e. G.S. 106-134.1;
  - f. 21 N.C.A.C. 46 .1805; and
  - g. 21 U.S.C. 353.

Based on the foregoing, and with the consent of the parties, IT IS THEREFORE,  
ORDERED, as follows:

1. Respondent, permit number 7242, is hereby suspended for five (5) consecutive business days, commencing on a Monday and ending on the following Friday. This suspension is stayed for two (2) years upon the conditions set forth below.

2. Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of its practice and compliance with the provisions of this Consent Order.
3. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs.
4. Respondent shall violate no rules and regulations of the Board.
5. If Respondent fails to comply with any terms or conditions of this Consent Order, Respondent may be subject to additional disciplinary action by the Board.

This the 21<sup>st</sup> day of November, 2006.

NORTH CAROLINA BOARD OF PHARMACY

By: \_\_\_\_\_

Jack W. Campbell, IV  
Executive Director

I, BILL SONNER, (name), the undersigned, am DIVISIONAL DIRECTOR (title) for the holder of permit #8258 and am authorized to sign this Consent Order. I have full knowledge that the permit holder has the right to a hearing and to be represented by counsel in this matter. I freely, knowingly, and voluntarily waive such right by entering into this Consent Order on behalf of Permit #8258. I understand and agree that by entering into this Consent Order, I certify that I have read the foregoing Consent Order and that the permit holder voluntarily consents to the terms and conditions set out therein and relinquishes any right to judicial review of Board actions which may be taken concerning this matter. I further understand that should the permit holder violate the terms and conditions of this Consent Order, the Board may take additional disciplinary action. I understand and agree that this Consent Order will not become effective unless and until approved by the Board.

BILL SONNER, DIVISIONAL DIRECTOR on behalf of permit #8258, accepts Board member Stan Haywood's proposal in this matter.

CONSENTED TO BY: [Signature] 10-31-06  
Name: BILL SONNER Date  
Title: DIVISIONAL DIRECTOR, SOUTHERN OPERATIONS

State of ILLINOIS LAKE County

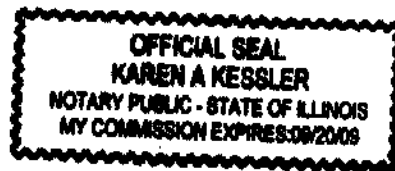
I, KAREN A. KESSLER, a Notary Public for the above-named County and State, do hereby certify that BILL SONNER personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 31<sup>ST</sup> day of OCTOBER, 2006, by \_\_\_\_\_

[Signature]  
Notary Public

KAREN A. KESSLER  
Typed or Printed Notary Name



My Commission Expires 9/20/09

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\_\_\_\_\_ on behalf of permit #8258, does not accept the proposed Consent Order in this matter.

By: \_\_\_\_\_  
Name: \_\_\_\_\_ Date  
Title: \_\_\_\_\_