

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Harris Regional Hospital)
(Permit No. 2306)) CONSENT ORDER
)
)

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46 .2008 on May 31, 2006. Board member Wallace Nelson presided. Also present at the conference were the following:

- Amy Cook, Investigator;
- Steve Hudson, Director of Investigations and Inspections;
- Anna Baird Choi, Board Counsel;
- Judith Ramey, Director of Pharmacy;
- Ronnie Sloan, Vice President of Administration;
- Ken Dickert, RPh.;
- Clifton Kolb, RPh.;
- Dale Curriden, Attorney for Harris Regional Hospital and Ken Dickert; and
- George Saenger, Attorney for Clifton Kolb.

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. Respondent Pharmacy is a pharmacy permitted by the Board and is the holder of permit number 2306. At all relevant times, Respondent Pharmacy operated as a pharmacy located at Harris Regional Hospital, 68 Hospital Road, Sylva, North Carolina.
2. On December 2, 2005, the Board received information from Judith Ramey, Pharmacist Manager, regarding diversion of prescription medication by hospital staff. Ms. Ramey also requested the Board's assistance in other matters related to pharmacy security, inventory control, etc.

3. The investigation produced evidence to show that prior to December 19, 2005, poor record-keeping and insufficient security measures at Respondent Pharmacy facilitated the diversion of controlled substances by two hospital nurses.
4. On December 19, 2005, Investigator Cook conducted a site investigation at Respondent Pharmacy. During her investigation, Investigator Cook noted the following:
 - Poor record-keeping regarding controlled substances;
 - Poor inventory control/storage of controlled substances;
 - Concerns regarding pharmacy access and security;
 - Violations of the 2:1 technician-to-pharmacist ratio; and
 - Outdated medication being kept with regular pharmacy stock.
5. During her interview with Ms. Ramey, Investigator Cook was informed that Dieter Kuhn, RN, had admitted to diverting substantial amounts of Demerol over the prior two years for his personal use. Kuhn's nursing license was subsequently revoked.
6. On December 21, 2005, Investigator Cook interviewed Terri Hooper, Nursing Supervisor. Ms. Hooper reported that Anita Dyson, RN, admitted to diverting Valium and Adderall from Respondent Pharmacy.
7. At the prehearing conference, Ms. Ramey provided extensive information regarding how the problems cited above have been addressed.

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

CONCLUSIONS OF LAW

1. Respondent Pharmacy admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on its permit under G.S. 90-85.38.

2. Respondent Pharmacy violated the following statutes and rules regarding record-keeping, security, documentation of controlled substances, technician-to-pharmacist ratio, and out-of-date medications:
 - a. G.S. 90-85.38(a)(6) and (7);
 - b. G.S. 90-85.40;
 - c. G.S. 90-85.15A;
 - d. G.S. 90-108;
 - e. 21 N.C.A.C. 46 .1410;
 - f. 21 N.C.A.C. 46 .1411;
 - g. 21 N.C.A.C. 46 .1412;
 - h. 21 N.C.A.C. 46 .1804; and
 - i. 21 N.C.A.C. 46 .2502.

Based on the foregoing, and with the consent of the parties, IT IS THEREFORE,

ORDERED, as follows:

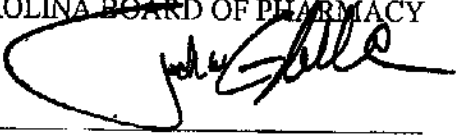
1. Respondent Pharmacy, permit number 2306, is hereby warned.
2. Respondent Pharmacy shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of its practice and compliance with the provisions of this Consent Order.
3. Respondent Pharmacy shall violate no laws governing the practice of pharmacy or the distribution of drugs.
4. Respondent Pharmacy shall violate no rules and regulations of the Board.

5. If Respondent Pharmacy fails to comply with any terms or conditions of this Consent Order, Respondent Pharmacy may be subject to additional disciplinary action by the Board.

This the 26 day of September, 2006.

NORTH CAROLINA BOARD OF PHARMACY

By: _____


Jack W. Campbell, IV
Executive Director

I, Mark Leonard, (name), the undersigned, am CEO/PRES (title) for the holder of permit no. 2306 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 no. 2306. 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.

Mark Leonard, CEO/PRES on behalf of permit no. 2306, accepts Board member Wallace Nelson's proposal in this matter.

CONSENTED TO BY: Mark Leonard 8/21/06
Name: _____ Date: _____
Title _____

State of North Carolina
Macon County

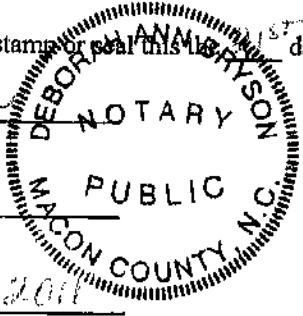
I, Deborah Ann Boyson, the undersigned Notary Public of the County and State aforesaid, certify that Mark Leonard personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purposes therein expressed. I have received satisfactory evidence of the principal's identity in the form of personally known identification

Witness my hand and Notarial stamp or seal this 21st day of August, 2006.

Deborah Ann Boyson
Notary Public

Deborah Ann Boyson
Typed or Printed Notary Name

My Commission Expires July 9, 2011



_____ on behalf of permit no. 2306, does not accept the proposed Consent Order in this matter.

By: _____
Name: _____ Date: _____
Title: _____