

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Cynthia Gacha	)	
(License No. 10067)	)	
	)	CONSENT ORDER
	)	
K Mart Pharmacy	)	
(Permit No. 7376)	)	
	)	

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46 .2008. This conference was scheduled for November 25, 2002 and was heard on that day at the Board office before Board member, Rebecca Chater. Also present at the conference were the following: Sandra Burns, Board Investigator; Steve Hudson, Director of Investigations and Inspections; Anna Baird Choi, Counsel for the Board; Larry Purser, K-Mart District Pharmacy Manager; and Cynthia Gacha (Respondent Gacha). 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 Gacha is licensed to practice pharmacy by the Board and is the holder of license number 10067.
2. On March 25, 2002, the Board received a complaint (#107.02) from Larry Purser, K-Mart District Pharmacy Manager, stating that Respondent Gacha was dispensing prescriptions for herself and a friend without authorization from a prescribing doctor. The prescriptions were

filled at K-Mart Pharmacy #3886, 980 Brevard Road, Asheville, North Carolina

(Respondent Pharmacy).

3. Upon investigation, it was revealed that Respondent Gacha filled prescriptions for herself, Elsbeth Lane, and two pets without authorization from a prescribing doctor.
4. The prescriptions dispensed by Respondent Gacha without authorization from a prescribing doctor are as follows:

<u>Patient</u>	<u>Doctor</u>	<u>Dispensing Date</u>	<u>Medication, strength &amp; units</u>
Respondent Gacha	R. Sheeley	10/7/00	Guaiifenex 600 mg, 60 units
Respondent Gacha	R. Sheeley	11/2/00 (refill)	Guaiifenex 600 mg, 120 units
Respondent Gacha	R. Sheeley	12/2/00 (refill)	Guaiifenex 600 mg, 120 units
Respondent Gacha	R. Sheeley	1/3/01 (refill)	Guaiifenex 600 mg, 120 units
Respondent Gacha	R. Sheeley	2/6/01 (refill)	Guaiifenex 600 mg, 120 units
Respondent Gacha	H.L. Clinton	10/12/00	Clindamycin 150 mg, 56 units
Respondent Gacha	D. Ward	2/9/01	Tamiflu 75 mg, 10 units
Respondent Gacha	D. Ward	2/9/01	Phenergan 25 mg, 6 units
Respondent Gacha	D. Ward	5/12/01	Guaiifenex 600 mg, 124 units
Respondent Gacha	D. Ward	6/24/01 (refill)	Guaiifenex 600 mg, 124 units
Respondent Gacha	D. Ward	7/27/01 (refill)	Guaiifenex 600 mg, 124 units
Respondent Gacha	D. Ward	8/23/01 (refill)	Guaiifenex 600 mg, 124 units
Respondent Gacha	D. Ward	9/27/01 (refill)	Guaiifenex 600 mg, 124 units
Respondent Gacha	D. Ward	11/02/01 (refill)	Guaiifenex 600 mg, 124 units
Respondent Gacha	D. Ward	12/09/01 (refill)	Guaiifenex 600 mg, 124 units
Respondent Gacha	D. Ward	1/11/02 (refill)	Guaiifenex 600 mg, 124 units
Respondent Gacha	D. Ward	2/15/02 (refill)	Guaiifenex 600 mg, 124 units
Respondent Gacha	D. Ward	3/15/02 (refill)	Guaiifenex 600 mg, 124 units
Respondent Gacha	D. Ward	5/12/01	Flonase 0.05%
Respondent Gacha	D. Ward	7/6/01 (refill)	Flonase 0.05%
Respondent Gacha	D. Ward	8/23/01 (refill)	Flonase 0.05%
Respondent Gacha	D. Ward	9/27/01 (refill)	Flonase 0.05%
Respondent Gacha	D. Ward	11/15/01 (refill)	Flonase 0.05%
Respondent Gacha	D. Ward	1/1/02 (refill)	Flonase 0.05%
Respondent Gacha	D. Ward	5/16/01	Vioxx 25 mg, 31 units
Respondent Gacha	D. Ward	8/21/01 (refill)	Vioxx 25 mg, 31 units
Respondent Gacha	D. Ward	1/7/02 (refill)	Vioxx 25 mg, 31 units

Respondent Gacha	D. Ward	9/4/01	Zyrtec 10 mg, 31 units
Respondent Gacha	D. Ward	10/7/01 (refill)	Zyrtec 10 mg, 31 units
Respondent Gacha	D. Ward	11/9/01 (refill)	Zyrtec 10 mg, 31 units
Respondent Gacha	D. Ward	12/9/01 (refill)	Zyrtec 10 mg, 31 units
Respondent Gacha	D. Ward	3/2/02	Zyrtec 10 mg, 31 units
Respondent Gacha	Howell, DDS	1/25/02	Z-Pak
Elsbeth Lane	J. Biddle	2/2/01	Synthroid 0.1 mg, 100 units
Elsbeth Lane	J. Biddle	5/1/01 (refill)	Synthroid 0.1 mg, 100 units
Elsbeth Lane	J. Biddle	8/10/01 (refill)	Synthroid 0.1 mg, 100 units
Elsbeth Lane	J. Biddle	11/6/01 (refill)	Synthroid 0.1 mg, 100 units
Elsbeth Lane	J. Biddle	2/7/02 (refill)	Synthroid 0.1 mg, 100 units
Elsbeth Lane	J. Biddle	7/24/01	Glucophage 850 mg, 90 units
Elsbeth Lane	J. Biddle	10/2/01 (refill)	Glucophage 850 mg, 90 units
Elsbeth Lane	J. Biddle	9/5/01	Gemfibrozil 600 mg, 60 units
Elsbeth Lane	J. Staub	5/1/00	Glucophage 850 mg, 90 units
Elsbeth Lane	J. Staub	6/5/00 (refill)	Glucophage 850 mg, 90 units
Elsbeth Lane	J. Staub	7/6/00 (refill)	Glucophage 850 mg, 90 units
Elsbeth Lane	J. Staub	8/12/00 (refill)	Glucophage 850 mg, 90 units
Elsbeth Lane	J. Staub	9/2/00 (refill)	Glucophage 850 mg, 90 units
Elsbeth Lane	J. Staub	9/20/00 (refill)	Glucophage 850 mg, 90 units
Elsbeth Lane	J. Staub	8/28/00	Gemfibrozil 600 mg, 60 units
Elsbeth Lane	J. Staub	10/22/00 (refill)	Gemfibrozil 600 mg, 60 units
Elsbeth Lane	J. Staub	9/20/00	Synthroid 0.1 mg, 100 units
Elsbeth Lane	J. Staub	9/20/00	Glyburide 5 mg, 100 units
Respondent Gacha	J. Staub	11/7/99	Zyrtec 10 mg, 30 units
Respondent Gacha	J. Staub	12/11/99 (refill)	Zyrtec 10 mg, 15 units
Respondent Gacha	J. Staub	2/7/00 (refill)	Zyrtec 10 mg, 10 units
Respondent Gacha	J. Staub	3/11/00 (refill)	Zyrtec 10 mg, 10 units
Respondent Gacha	J. Staub	3/31/00 (refill)	Zyrtec 10 mg, 5 units
Respondent Gacha	J. Staub	4/13/00 (refill)	Zyrtec 10 mg, 10 units
Respondent Gacha	J. Staub	5/1/00 (refill)	Zyrtec 10 mg, 31 units
Respondent Gacha	J. Staub	7/2/00 (refill)	Zyrtec 10 mg, 31 units
Respondent Gacha	J. Staub	9/2/00 (refill)	Zyrtec 10 mg, 31 units
Respondent Gacha	J. Staub	10/25/00 (refill)	Zyrtec 10 mg, 31 units
Respondent Gacha	J. Staub	11/7/99	Flonase 0.05%

Respondent Gacha	J. Staub	12/11/99 (refill)	Flonase 0.05%
Respondent Gacha	J. Staub	11/7/99	Levothroid 0.1 mg, 60 units
Respondent Gacha	J. Staub	12/11/99 (refill)	Synthroid 0.1 mg, 30 units
Respondent Gacha	J. Staub	2/7/00 (refill)	Synthroid 0.1 mg, 20 units
Respondent Gacha	J. Staub	11/7/99	Guaifen/PSE 600-120, 60 units
Respondent Gacha	J. Staub	12/11/99 (refill)	Guaifen/PSE 600-120, 60 units
Respondent Gacha	J. Staub	1/5/00 (refill)	Guaifen/PSE 600-120, 60 units
Respondent Gacha	J. Staub	2/18/00 (refill)	Guaifen/PSE 600-120, 30 units
Respondent Gacha	J. Staub	11/7/99	Minocycline 100 mg, 30 units
Respondent Gacha	J. Staub	12/11/99 (refill)	Minocycline 100 mg, 15 units
Respondent Gacha	J. Staub	1/5/00 (refill)	Minocycline 100 mg, 30 units
Respondent Gacha	J. Staub	2/7/00 (refill)	Minocycline 100 mg, 15 units
Respondent Gacha	J. Staub	2/28/00 (refill)	Minocycline 100 mg, 15 units
Respondent Gacha	J. Staub	3/7/00	Synthroid 0.1 mg, 20 units
Respondent Gacha	J. Staub	3/31/00 (refill)	Synthroid 0.1 mg, 20 units
Respondent Gacha	J. Staub	5/1/00 (refill)	Synthroid 0.1 mg, 31 units
Respondent Gacha	J. Staub	5/24/00 (refill)	Synthroid 0.1 mg, 31 units
Respondent Gacha	J. Staub	6/26/00 (refill)	Synthroid 0.1 mg, 31 units
Respondent Gacha	J. Staub	7/30/00 (refill)	Synthroid 0.1 mg, 31 units
Respondent Gacha	J. Staub	8/30/00 (refill)	Synthroid 0.1 mg, 31 units
Respondent Gacha	J. Staub	3/8/00	Guaifen/PSE 600-120, 30 units
Respondent Gacha	J. Staub	3/25/00 (refill)	Guaifen/PSE 600-120, 60 units
Respondent Gacha	J. Staub	5/1/00 (refill)	Guaifen/PSE 600-120, 62 units
Respondent Gacha	J. Staub	5/27/00 (refill)	Guaifen/PSE 600-120, 62 units
Respondent Gacha	J. Staub	7/1/00 (refill)	Guaifen/PSE 600-120, 26 units
Respondent Gacha	J. Staub	3/12/00	Minocycline 100 mg, 30 units
Respondent Gacha	J. Staub	3/31/00 (refill)	Minocycline 100 mg, 15 units
Respondent Gacha	J. Staub	4/14/00 (refill)	Minocycline 100 mg, 15 units
Respondent Gacha	J. Staub	5/1/00 (refill)	Minocycline 100 mg, 60 units
Respondent Gacha	J. Staub	7/11/00 (refill)	Minocycline 100 mg, 60 units
Respondent Gacha	J. Staub	9/2/00 (refill)	Minocycline 100 mg, 62 units
Respondent Gacha	J. Staub	11/15/00 (refill)	Minocycline 100 mg, 62 units
Respondent Gacha	J. Staub	1/3/01 (refill)	Minocycline 100 mg, 62 units
Respondent Gacha	J. Staub	5/1/00	Flonase 0.05%
Respondent Gacha	J. Staub	6/21/00 (refill)	Flonase 0.05%
Respondent Gacha	J. Staub	8/3/00 (refill)	Flonase 0.05%
Respondent Gacha	J. Staub	9/20/00 (refill)	Flonase 0.05%
Respondent Gacha	J. Staub	10/25/00 (refill)	Flonase 0.05%
Respondent Gacha	J. Staub	1/3/01 (refill)	Flonase 0.05%

Respondent Gacha	J. Staub	2/15/01 (refill)	Flonase 0.05%
Respondent Gacha	J. Staub	3/11/01 (refill)	Flonase 0.05%
Respondent Gacha	J. Staub	7/30/00	Guaifen/PSE 600-120, 62 units
Respondent Gacha	J. Staub	9/2/00 (refill)	Guaifen/PSE 600-120, 62 units
Respondent Gacha	J. Staub	9/22/00	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	10/25/00 (refill)	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	11/28/00 (refill)	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	1/3/01	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	4/26/01 (refill)	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	6/6/01 (refill)	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	6/29/01 (refill)	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	8/10/01 (refill)	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	9/11/01 (refill)	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	10/12/01 (refill)	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	11/15/01 (refill)	Synthroid 0.15mg, 31 units
Respondent Gacha	J. Staub	1/3/01	Zyrtec 10 mg, 30 units
Respondent Gacha	J. Staub	3/24/01	Minocycline 100 mg, 60 units
Respondent Gacha	J. Staub	5/12/01	Minocycline 100 mg, 60 units
Respondent Gacha	J. Staub	6/29/01 (refill)	Minocycline 100 mg, 60 units
Respondent Gacha	J. Staub	8/23/01 (refill)	Minocycline 100 mg, 60 units
Respondent Gacha	J. Staub	11/5/01 (refill)	Minocycline 100 mg, 60 units
Respondent Gacha	J. Staub	12/14/01	Synthroid 0.15 mg, 31 units
Respondent Gacha	J. Staub	1/11/02 (refill)	Synthroid 0.15 mg, 31 units
Respondent Gacha	J. Staub	1/2/02	Minocycline 100 mg, 60 units
Respondent Gacha	J. Staub	3/2/02 (refill)	Minocycline 100 mg, 60 units
Respondent Gacha	J. Staub	2/15/02	Synthroid 0.15 mg, 90 units
Nikki Gacha (dog)	J. Nesbitt	11/12/99	Cipro 100 mg, 12 units
Sammy Gacha (cat)	J. Nesbitt	11/7/99	Tapazole 10 mg, 60 units
Sammy Gacha (cat)	J. Nesbitt	12/10/99 (refill)	Tapazole 10 mg, 60 units
Sammy Gacha (cat)	J. Nesbitt	1/5/00 (refill)	Tapazole 10 mg, 60 units
Sammy Gacha (cat)	J. Nesbitt	2/6/00 (refill)	Tapazole 10 mg, 60 units
Sammy Gacha (cat)	J. Nesbitt	3/7/00 (refill)	Tapazole 10 mg, 60 units
Sammy Gacha (cat)	J. Nesbitt	4/8/00 (refill)	Tapazole 10 mg, 60 units
Sammy Gacha (cat)	J. Nesbitt	5/8/00 (refill)	Tapazole 10 mg, 60 units
Sammy Gacha (cat)	J. Nesbitt	6/4/00 (refill)	Tapazole 10 mg, 60 units

Sammy Gacha (cat)	J. Nesbit:	7/2/00 (refill)	Tapazole 10 mg, 60 units
Nikki Gacha (dog)	R. Freeman	8/9/01	Amoxicillin 250 mg, 15 units
Nikki Gacha (dog)	R. Freeman	9/25/01	Sumycin 125/5 mL, 240 units
Nikki Gacha (dog)	R. Freeman	10/26/01	Amoxicillin 250 mg, 15 units
Nikki Gacha (dog)	R. Freeman	11/26/01	Amoxicillin 250 mg, 15 units
Nikki Gacha (dog)	R. Freeman	12/21/01 (refill)	Amoxicillin 250 mg, 15 units
Nikki Gacha (dog)	R. Freeman	1/20/02 (refill)	Amoxicillin 250 mg, 15 units
Nikki Gacha (dog)	R. Freeman	3/24/02	Terak
Nikki Gacha (dog)	R. Freeman	5/20/02 (refill)	Terak
Nikki Gacha (dog)	R. Freeman	3/27/02	Enalapril 5 mg, 30 units
Nikki Gacha (dog)	R. Freeman	5/20/02 (refill)	Enalapril 5 mg, 30 units
Nikki Gacha (dog)	R. Freeman	4/25/02	Diazepam 2 mg, 14 units
Nikki Gacha (dog)	R. Freeman	5/13/02 (refill)	Diazepam 2 mg, 14 units

5. Respondent Gacha stated that she received verbal instructions from her pets' veterinarian to continue their medications. However, she acknowledged that she did not obtain written prescriptions from the veterinarian.
6. Respondent Gacha stated that the prescriptions she filled for herself without authorization were for medications she had been prescribed previously. She stated that she did not obtain new prescriptions because she did not have a local physician after moving to the Asheville area.
7. Respondent Gacha stated that the prescriptions she filled for Elsbeth Lane without authorization were for medications Ms. Lane had been prescribed previously. Respondent Gacha stated that Ms. Lane did not obtain new prescriptions because she did not have enough money to pay for an initial visit with a new doctor after moving to the Asheville area.

8. Respondent Gacha stated that she now has a relationship with a physician in the area and that she is now a participant in the K-Mart HMO plan.

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

CONCLUSIONS OF LAW

1. Respondent Gacha admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on her license under G.S. 90-85.38.
2. Respondent Gacha violated the following statutes and rules when she failed to properly and accurately dispense medication:
  - a. G.S. §90-85.38(a)(4),(6), (7) and (9);
  - b. G.S. §§ 90-106(c) and 90-108(a)(2);
  - c. G.S. §§106-122(1) and 106-134.1;
  - d. 21 N.C.A.C. 46 .1805;
  - e. 21 U.S.C. §§ 331(a), 353(b), 829(b) and 842(a)(1); and
  - f. 21 C.F.R. 1306.21(a).

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

1. This complaint is dismissed as to Respondent K-Mart Pharmacy, permit number 7376.
2. License number 10067 is suspended for two (2) days.
3. This suspension is stayed for a period of three (3) years upon the following conditions:
  - a. Respondent Gacha shall advise the Board promptly in writing of any change of address or change in practice status;

- b. Respondent Gacha shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of her practice and compliance with the provisions of this Consent Order;
  - c. Respondent Gacha shall violate no laws governing the practice of pharmacy or the distribution of drugs;
  - d. Respondent Gachashall violate no rules and regulations of the Board;
  - e. If Respondent Gacha fails to comply with any terms or conditions of this Consent Order, Respondent Gacha may be subject to additional disciplinary action by the Board.
4. This suspension and stay of suspension described above commences upon the date this Consent Order is approved by the Board.

This the 18<sup>th</sup> day of March, 2003.

NORTH CAROLINA BOARD OF PHARMACY

By: David R. Work  
David R. Work  
Executive Director



Cynthia Gacha, the holder of License #10067, has full knowledge that she has the right to a hearing and to be represented by counsel in this matter. She freely, knowingly, and voluntarily waives such right by entering into this Consent Order on behalf of License #10067. The undersigned understands and agrees that by entering into this Consent Order, she certifies that she has read the foregoing Consent Order and that she 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. The undersigned further understands that should she 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.

Cynthia Gacha, License #10067, **accepts** Board member Rebecca Chater's proposal in this matter.

CONSENTED TO BY: *Cynthia Gacha* 1/16/03  
Cynthia Gacha Date  
License No. 10067

State of North Carolina  
Buncombe County

I, Kris A. Wysong, a Notary Public for the above-named County and State, do hereby certify that Cynthia Gacha personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 16 day of January, 2003.

*Kris A. Wysong*  
Notary Public

My Commission Expires 04-10 2007

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Cynthia Gacha, License No. 10067, **does not accept** the proposed Consent Order in this matter.

By: \_\_\_\_\_  
Cynthia Gacha Date  
License No. 10067