

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Cynthia Burrows, RPh. )  
(License No. 8195) )  
 )  
Wilbur Crumpler, RPh. )  
(License No. 4070) )  
 )  
New Bern Medical Arts Pharmacy )  
(Permit No. 2704) )  
 )

CONSENT ORDER

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46 .2008 on September 25, 2006. Board President Rebecca Chater presided. Also present at the conference were the following:

- Josh Kohler, Assistant Director of Investigations & Inspections;
- Karen Matthew, Director of Investigations & Inspections;
- Anna Baird Choi, Counsel for the Board;
- George Davis, owner of New Bern Medical Arts Pharmacy (Respondent Pharmacy); and
- Cynthia Burrows, RPh. (Respondent Burrows).

Wilbur Crumpler, RPh. (Respondent Crumpler) was also served with a Notice of Prehearing Conference. However, he was not present at the Conference. 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 Burrows is licensed to practice pharmacy by the Board and is the holder of license number 8195. At all relevant times, Respondent Burrows was employed as the Pharmacist Manager at Respondent Pharmacy located at 1916 Neuse Road, New Bern, North Carolina.

2. Respondent Crumpler is licensed to practice pharmacy by the Board and is the holder of license number 4070. At all relevant times, Respondent Crumpler was employed as a staff Pharmacist at Respondent Pharmacy located at 1916 Neuse Road, New Bern, North Carolina.
3. On July 29, 2005, the Board received a complaint from a physician who called on behalf of a patient. The physician alleged that the pharmacy dispensed Morphine Elixir 10mg/5ml on a prescription order for Morphine Elixir 10mg/15ml. Morphine is a schedule II controlled substance.
4. The investigation produced evidence to show that on or about May 25, 2005, Respondent Crumpler dispensed Morphine Elixir 10mg/5ml on a prescription order for Morphine Elixir 10mg/15ml.
5. The investigation produced evidence to show that on or about June 20, 2005, Respondent Burrows dispensed Morphine Elixir 10mg/5ml on a prescription order for Morphine Elixir 10mg/15ml.
6. During an interview conducted on January 4, 2006, Respondent Burrows informed Mr. Kohler that she misread the prescription on her final check of the medication because she was accustomed to the patient receiving Morphine Elixir 10mg/15ml.
7. At the Prehearing Conference, Ms. Burrows stated that the patient was unaware that the strength of the medication had been decreased and that she thought the physician had made an error on the prescription.
8. The investigation produced evidence to show that though the patient signed the counsel logs on May 25 and June 20, 2006, the pharmacy had no documentation of acceptance or refusal of patient counseling.

9. No evidence was presented to show that the patient suffered any long-term side effects.

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

CONCLUSIONS OF LAW

1. Respondent Burrows admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on her license under G.S. 90-85.38.
2. Respondent Crumpler admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under G.S. 90-85.38.
3. Respondent Pharmacy admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on its permit under G.S. 90-85.38.
4. Respondents violated the following statutes and rules when they dispensed and delivered the incorrect strength of Morphine Elixir to a patient and failed to document the patient's acceptance/refusal of counseling:
  - a. G.S. 90-85.38(a)(6), (7) and (9);
  - b. G.S. 90-85.40;
  - c. G.S. 90-106;
  - d. G.S. 90-108;
  - e. G.S. 106-134.1;
  - f. 21 N.C.A.C. 46 .1805;
  - g. 21 N.C.A.C. 46 .2504;
  - h. 21 U.S.C. 352; and
  - i. 21 CFR 1306.11.

5. Additionally, Respondent Burrows and Respondent Pharmacy violated the following rule when the incorrect strength of Morphine Elixir was dispensed and delivered to a patient:
- a. 21 N.C.A.C. 46 .1804.

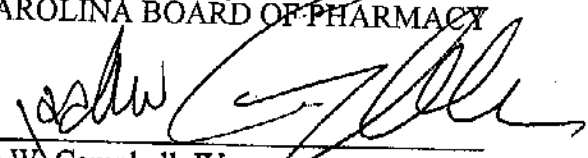
Based on the foregoing, and with the consent of the parties, IT IS THEREFORE, ORDERED, as follows:

1. Respondent Burrows, license number 8195, is hereby warned.
2. Respondent Crumpler, license number 4070, is hereby warned.
3. Respondent Pharmacy, permit number 2704, is hereby warned.
4. Respondents shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of their practice and compliance with the provisions of this Consent Order.
5. Respondents shall violate no laws governing the practice of pharmacy or the distribution of drugs.
6. Respondents shall violate no rules and regulations of the Board.
7. If Respondents fail to comply with any terms or conditions of this Consent Order, Respondents 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

Cynthia Burrows, the holder of License #8195, 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 #8195. 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 Burrows, License #8195, accepts Board member Rebecca Chater's proposal in this matter.

CONSENTED TO BY: Cynthia Burrows 10-13-06  
Cynthia Burrows Date  
License No. 8195

State of NC  
Ramlico County

I, Karen V. Cahoon a Notary Public for the above-named County and State, do hereby certify that Cynthia Burrows personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 13 day of October, 2006, by Cynthia Burrows.

Karen V. Cahoon  
Notary Public

Karen V. Cahoon  
Typed or Printed Notary Name

My Commission Expires 4-9-10

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Cynthia Burrows, License No. 8195, does not accept the proposed Consent Order in this matter.

By: \_\_\_\_\_  
Cynthia Burrows Date  
License No. 8195

Wilbur Crumpler, the holder of License #4070, has full knowledge that he has the right to a hearing and to be represented by counsel in this matter. He freely, knowingly, and voluntarily waives such right by entering into this Consent Order on behalf of License #4070. The undersigned understands and agrees that by entering into this Consent Order, he certifies that she has read the foregoing Consent Order and that he 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 he 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.

Wilbur Crumpler, License #4070, accepts Board member Rebecca Chater's proposal in this matter.

CONSENTED TO BY: Wilbur A. Crumpler 10/17/06  
Wilbur Crumpler Date  
License No. 4070

State of NC  
CRAVEN County

I, Leddia F. Chapman, a Notary Public for the above-named County and State, do hereby certify that Wilbur Crumpler personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 17 day of OCT, 2006, by Wilbur Crumpler.

Leddia F. Chapman  
Notary Public

Leddia F. Chapman  
Typed or Printed Notary Name

My Commission Expires 12/11/06

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Wilbur Crumpler, License No. 4070, does not accept the proposed Consent Order in this matter.

By: \_\_\_\_\_  
Wilbur Crumpler Date  
License No. 4070

I, George W. Davis Jr., (name), the undersigned, am President (title) for the holder of permit no. 2704 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. 2704. I understand and agree that by entering into this Consent Order, I certify that I have read the foregoing Consent Order and that 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.

George W. Davis Jr., Pres. on behalf of permit no. 2704, accepts Board member Rebecca Chater's proposal in this matter.

CONSENTED TO BY: George W. Davis Jr. President 10/13/2006  
Name: George W. Davis Jr. Date  
Title President

State of North Carolina Craven County

I, Tracy C. Miller, a Notary Public for the above-named County and State, do hereby certify that George W. Davis Jr. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 13 day of October, 2006, by me, Tracy C. Miller, a notary public

Tracy C. Miller  
Notary Public

Tracy C. Miller  
Typed or Printed Notary Name

My Commission Expires 3.7.2011.



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\_\_\_\_\_ on behalf of permit no. 2704, does not accept the proposed Consent Order in this matter.

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