

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Larry Cloer
(License No. 6115)

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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 September 14, 2009 and, after appropriate notice, was heard on that day by Board member Stan Haywood at the offices of the Board. Respondent Larry Cloer (License No. 6115) (hereinafter, "Respondent" or "Cloer") was present. Counsel Joseph Ponzi represented the Board. Members of the Board's investigative 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 his consent, Respondent also stipulates that he waives his 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, a pharmacist licensed to practice pharmacy in the State of North Carolina with License No. 6115. During all times relevant hereto, Respondent was employed as pharmacist manager at U Save It Pharmacy Franklin, Permit No. 10047, located at 20 Franklin Plaza Dr, Franklin, North Carolina. 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 October 21, 2008, Respondent dispensed Amitriptyline 100 mg tablets to a five-year-old patient where the prescription called for Clonidine 0.1mg. Respondent further dispensed the Amitriptyline comingled with and improperly labeled as Clonidine. The patient ingested one (1) tablet of Amitriptyline, and suffered health complications as a result.

4. On the date of the error, Respondent as pharmacist-manager had more than two technicians working under the supervision of one pharmacist without Board authorization, filled prescriptions at a rate as to pose a danger to the public health and safety, and failed to adequately supervise technicians.

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), 90-85.29, 90-85.30, 90-85.38(a)(6), (7), (9), and (b), 90-85.40(f), 106-122, 106-134, and 106-134.1; and 21 N.C.A.C. 46 .1804(a), 46 .1805, 46 .1811, 46 .1818, and 46 .2501; and 21 U.S.C. §§ 331, 352 and 353.

2. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license 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 license of Respondent Cloer, License No. 6115, is hereby SUSPENDED for seven (7) days. Such suspension shall be stayed for two (2) years from the date that this Order is accepted by the Board, upon the following conditions:

1. Respondent shall advise the Board promptly in writing of any change of address or change in practice status;
2. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs;
3. Respondent shall violate no rules or regulations of the Board;
4. Respondent as pharmacy manager is responsible for ensuring that the proper waiver is obtained from the Board if more than two technicians will be working under the supervision of one pharmacist and will not permit more than two technicians to work under the supervision of one pharmacist unless and until a waiver is obtained; and
5. Respondent shall complete a Medication Error Prevention Course from an ACPE-accredited institution, such as that offered by Campbell University School of Pharmacy, within six (6) months of the date that this Order is accepted by the Board, and shall submit documentation of such completion to the Executive Director of the Board.

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

This the 27th day of October, 2009.

NORTH CAROLINA BOARD OF PHARMACY

By: _____

Jack W. Campbell, IV
Executive Director

A handwritten signature in black ink, appearing to read "Jack W. Campbell, IV", is written over a horizontal line. The signature is enclosed within a hand-drawn oval.

Larry Cloer, the holder of license number 6115, has full knowledge that he has the right to a formal hearing, at which he would have the right to be represented at his 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, he certifies that he has read the foregoing Consent Order and that he 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 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.

The undersigned understands that he has the right to have counsel of his choice review and advise him with respect to his rights and this Consent Order, and represents that he enters this Consent Order after consultation with his counsel or after knowingly and voluntarily choosing not to consult with counsel.

CONSENTED TO BY:

Larry Cloer Date 10/22/09
Larry Cloer
(License No. 6115)

NORTH CAROLINA

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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: Larry Cloer

Date: Oct. 22, 2009

Carolyn R. Young
Notary Public

My commission expires: Jan. 28, 2011

OBJECTED TO BY:

_____ Date _____

Larry Cloer
(License No. 6115)