

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

■     The Matter Of:

DAVID F. YANDLE, JR.                     )  
(License No. 12870)                     )     **CONSENT ORDER IMPOSING DISCIPLINE**  
   )     **AND REINSTATING LICENSE**  
   )

■     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 September 17, 2007, and was heard on that day at the office of the North Carolina Board of Pharmacy (hereinafter "Board") by Board member Dr. Betty Dennis. Petitioner/Respondent David F. Yandle, Jr. and his counsel, Board counsel Katherine A. Soles, and members of the Board's investigation and legal staff were present at the conference. Mr. Yandle waived any notice requirements for 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 and conclusions of law:

**FINDINGS OF FACT**

1.     At all relevant times until February 27, 2007, Mr. Yandle was licensed to practice pharmacy by the Board and was the holder of license number 12870.
2.     On or about November 11, 2006, Mr. Yandle dispensed Mytussin AC syrup to himself, while working as a pharmacist at Eckerd Drugs #8126, 2659 NC Highway 127 South, Hickory, North Carolina. In addition, on or about the same day, Mr. Yandle used this Mytussin AC while on duty at Eckerd Drugs. Mytussin AC is a schedule V controlled substance.
3.     Mr. Yandle did not have a prescription for Mytussin AC.



4. Mr. Yandle acknowledges that he dispensed the Mytussin AC to himself without a prescription and that he used it while on duty at Eckerd Drugs.

5. On February 27, 2007, Mr. Yandle voluntarily surrendered his license.

6. Mr. Yandle voluntarily cooperated with North Carolina Pharmacist Recovery Network to evaluate any potential physical or mental impairments to his safe practice of pharmacy. Between June 5 and June 7, 2007, Mr. Yandle participated in an evaluation at Pavillion International. The treatment professionals at Pavillion did not conclude that there was any diagnosis of substance abuse or dependence. They did find certain traits they believed to be consistent with disruptive behavior problems.

7. By acceptance of this consent order, Petitioner desires to pursue monitoring, evaluation and any recommended treatment for any potential impediments to the safe practice of pharmacy.

#### CONCLUSIONS OF LAW

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

1. Mr. Yandle violated the following statutes and rules when he dispensed Mytussin AC to himself without a prescription:

- a. N.C. Gen. Stat. § 90-85.38(a)(6) and (7);
- b. N.C. Gen. Stat. § 90-85.40(b) and (f); and
- c. 21 N.C.A.C. 46.1805.

2. Mr. Yandle admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under N.C. Gen. Stat. § 90-85.38.

3. The Board further concludes that Mr. Yandle can safely resume the practice of pharmacy, subject to the conditions set forth below.

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

1. Mr. Yandle's license to practice pharmacy shall be actively suspended for a period of two (2) days. This suspension shall be deemed to have been already served during the period in which Mr. Yandle voluntarily surrendered his license.

2. Mr. Yandle's license to practice pharmacy shall be suspended indefinitely. This suspension shall be stayed for the duration of his monitoring and treatment plan, subject to the following conditions:

- a. Within two weeks of entry of this Consent Order, Mr. Yandle shall be evaluated by a treatment provider acceptable to the Executive Director who will adopt a monitoring and treatment plan for any behavioral, psychological, mental or physical issues that could potentially pose an impediment to the safe practice of pharmacy. That monitoring and treatment plan shall extend for two (2) years from the date of this Consent Order, and shall include – at a minimum – monthly evaluations with the Board-approved treatment provider. Mr. Yandle agrees to follow any and all recommendations of the Board-approved treatment provider, including but not limited to requirements for monitoring and treatment more frequent than the minimum monthly evaluations.
- b. Mr. Yandle agrees that his evaluation and treatment will be rendered at his own expense, and he will be responsible for paying the treatment provider.
- c. Mr. Yandle agrees that the treatment provider is authorized to provide any information about him, including but not limited to records about his

condition, prognosis and treatment, to the Board of Pharmacy and its members, employees, attorneys and agents for the Board of Pharmacy's use in the discharge of its duties while enforcing the laws regulating the practice of pharmacy. Mr. Yandle further agrees that the treatment provider is authorized to immediately report to the Board of Pharmacy any non-compliance with the recommendations of the treatment provider. Mr. Yandle agrees that non-compliance with either the treatment and monitoring schedule set forth in this Consent Order or any of the recommendations of the treatment provider will be grounds for discipline, including the suspension of his license, by the Board of Pharmacy.

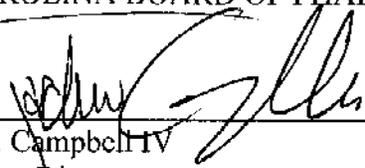
- d. In the event that the treatment provider determines that a different treatment schedule is appropriate or that treatment and monitoring may be terminated, Mr. Yandle may request that the Executive Director alter or terminate the schedule set forth in this Consent Order. The Executive Director shall have the sole discretion to alter or terminate the schedule set forth in this Consent Order, and Mr. Yandle agrees to waive any appeal or recourse in the event that the Executive Director decides not to alter or terminate the schedule set forth in this Consent Order.
- f. Mr. Yandle shall advise the Board promptly in writing of any change of address or change in practice status.
- g. Petitioner shall violate no laws governing the practice of pharmacy or the distribution of drugs.
- h. Petitioner shall violate no rules or regulations of the Board.

This the 17<sup>m</sup> day of September, 2007.

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 large, hand-drawn oval.

David F. Yandle, Jr., the holder of license number 12870 has full knowledge that he has the right to a 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.

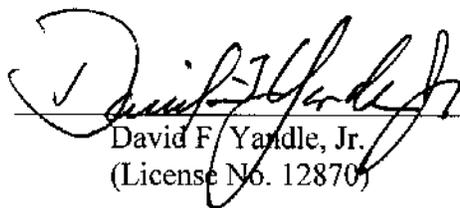
The undersigned understands and agrees that by entering into this Consent Order, he certifies that he has read the foregoing Consent Order and that he voluntarily consents to the terms and conditions set forth therein and relinquishes any right to judicial review of Board actions which may be taken concerning 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:

  
David F. Yandle, Jr.  
(License No. 12870)

Date 9-17-07

NORTH CAROLINA

Durham COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that David F. Yandle, Jr. personally appeared before me this day, and each acknowledged the due execution of the foregoing document.

Date: 9-17-07

Carol S. Smith  
Notary Public

My commission expires: 12/05/11