

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Frederick Schwartz
(License No. 13246)

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CONSENT ORDER

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 January 15 2007 and was heard on that day at the Board office before Board member Joey McLaughlin. Also present at the conference were the following: Melissa Cumming, Board Investigator; Karen Matthew, Director of Investigations and Inspections; Anna Baird Choi, Counsel for the Board; and Frederick Schwartz, RPh. ("Respondent").

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 is the holder of license number 13246. At all relevant times, Respondent was employed as a staff pharmacist at Harris Teeter Pharmacy, permit no. 7237 located at 1817 Martin Luther King, Jr. Parkway, Durham, North Carolina.
2. On July 5, 2006, the Board received a complaint from a physician alleging that Respondent had refilled his daughter's prescription for Lisinopril without authorization. The complainant also alleged that Respondent had requested that she (the physician) prescribe Vicodin for Respondent's daughter because of his daughter's menstrual cramps. The complainant also alleged that Respondent informed the complainant that he had previously administered Vicodin to his daughter without a prescription. Vicodin is a schedule III controlled substance.

3. During an interview with Investigator Cumming, Respondent admitted that he had dispensed a refill of Lisinopril to his daughter without authorization from her physician. His comment to the investigator was "can we get a doctor to verify it now?"
4. During an interview with Investigator Cumming, Respondent also admitted giving his daughter Vicodin from his own prescription. He stated that his daughter had severe menstrual cramps.
5. During the prehearing conference, Respondent admitted to sharing his Vicodin with his daughter and on one occasion, dispensing Lisinopril to his daughter.

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

CONCLUSIONS OF LAW

1. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under G.S. 90-85.38.
2. Respondent violated the following statutes and rules when he dispensed and delivered medications without a prescription:
 - a. G.S. 90-85.38(a)(6) and (7);
 - 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 U.S.C. 353, 829 & 842; and
 - h. 21 C.F.R. 1306.21.

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

1. The license of Respondent Schwartz, license no. 13246, is hereby suspended for three (3) consecutive business days.
2. The above-referenced suspension is stayed for a period of one (1) year, upon the following conditions:
 - a. Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of his practice and compliance with the provisions of this Consent Order.
 - b. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs.
 - c. Respondent shall violate no rules and regulations of the Board.
 - d. If Respondent fails to comply with any terms or conditions of this Consent Order, Respondent may be subject to additional disciplinary action by the Board.

This the 20th day of February, 2007.

NORTH CAROLINA BOARD OF PHARMACY

By:



Jack W. Campbell, IV
Executive Director

Frederick Schwartz, the holder of License #13246, 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 #13246. 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 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.

Frederick Schwartz, License #13246, accepts Board member Joey McLaughlin's proposal in this matter.

CONSENTED TO BY: Frederick Schwartz 2-8-07
Frederick Schwartz Date
License No. 13246

State of North Carolina
Wake County

I, Maurice K. Mallette, a Notary Public for the above-named County and State, do hereby certify that Frederick Schwartz personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 8th day of Feb, 2007, by Frederick Schwartz.

M. Mallette
Notary Public

Maurice K. Mallette
Typed or Printed Notary Name



My Commission Expires My Commission Expires 7-4-2009.

Frederick Schwartz, License No. 13246, does not accept the proposed Consent Order in this matter.

By: _____ Date _____
Frederick Schwartz
License No. 13246