

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

JOHN E. HOOFNAGLE
(License No. 5499)

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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 November 14, 2011 and, after appropriate notice, was heard on that day by Board member Robert J. McLaughlin, Jr., at the offices of the Board. Respondent John E. Hoofnagle (License No. 5499) (hereinafter, "Respondent") was present at the Conference. Counsel Rebecca L. Cage 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 North Carolina Board of Pharmacy 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. 5499. At all relevant times, Respondent was employed as a pharmacist at CVS Pharmacy, Permit No. 6820, located at 3739 Nash Street, N.W., Wilson, North Carolina. Respondent is and was, at all relevant times referenced herein, subject to the rules and regulations of the Board and the laws of the State of North Carolina.

3. On or about May 16, 2010, Respondent created an unauthorized prescription for azithromycin 250 mg for a family member and dispensed those drugs without a valid prescription.

4. Between approximately January 2009 and September 2010, Respondent created ninety-five (95) purported call-in prescription records that were inaccurate and incomplete and Respondent dispensed drugs to himself and a family member based on those purported call-in prescriptions. Respondent and his family member had received valid hard copy prescriptions for the drugs dispensed. But Respondent failed to present the hard-copy prescriptions when dispensing the drugs and failed to keep required records of the drugs dispensed.

5. During the Conference, Respondent acknowledged that he had committed the acts alleged in this matter.

CONCLUSIONS OF LAW

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

1. All parties are properly before the Board, and the Board has jurisdiction over Respondent and the subject matter of this proceeding.

2. Respondent's conduct, as set out in the findings of fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 90-85.38 because Respondent's acts were in violation

of N.C. Gen. Stat. §§ 90-85.26(a), 90-85.38(a)(6), (7) and (9), 90-85.40(b) and (f), 106-134 and 106-134.1; 21 N.C.A.C. 46 .1801, 46 .1803, 46 .1805, 46 .2301, 46 .2302, and 46 .2501.

3. 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 Hoofnagle, License No. 5499, is hereby SUSPENDED for five (5) days, which suspension is stayed for twelve (12) months from the date that this Order is accepted by the Board, upon the following conditions:

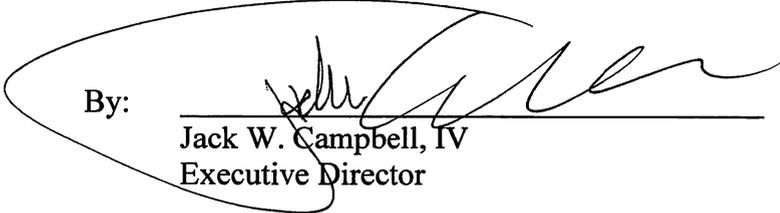
1. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs; and
2. Respondent shall violate no rules or regulations of the Board.

If Respondent fails to comply with any terms or conditions of this Order, the twelve-month stay described above shall be lifted and Respondent may be subject to additional disciplinary action by the Board.

This the 17th day of January, 2011.

NORTH CAROLINA BOARD OF PHARMACY

By: _____


Jack W. Campbell, IV
Executive Director

John E. Hoofnagle, the holder of license number 5499, 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:

John E Hoofnagle Date 12/3/11
John E. Hoofnagle
(License No. 5499)

Florida STATE

Pinellas COUNTY

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: John E. Hoofnagle

Date: 12/3/11

Aaron C. Yarbrough
Notary Public
Aaron C. Yarbrough

My commission expires: 11/15/2014

