

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

John Elkins, RPh.)
(License No. 4379)) CONSENT ORDER
)
)

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46 .2008 on April 24, 2006. Board member Betty Dennis presided. Also present at the conference were the following: Josh Kohler, Investigator; Steve Hudson, Director of Investigations and Inspections; Anna Baird Choi, Counsel for the Board; John Elkins (Respondent); George Hearn, counsel for Eckerd Pharmacy; and several representatives of Eckerd Pharmacy. 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 licensed to practice pharmacy by the Board and is the holder of license number 4379. At all relevant times, Respondent was employed at Eckerd Pharmacy located at 900 Bingham Drive, Fayetteville, North Carolina as the Pharmacist Manager.
2. On February 17, 2005, the Board received a complaint from the mother of a patient (a 10-year-old girl) who alleged that her daughter had received the incorrect strength of Videx from the pharmacy described above.
3. The investigation produced evidence to show that on or about May 16, 2000, Sandra Cathcart, RPh, received the patient's prescription for Videx 10 mg/ml suspension and entered directions for mixing the medication into the pharmacy computer. Ms. Cathcart's handwritten directions read, "200cc distilled water/pour that into 200cc of Maalox cherry flavor/ max strength [illegible] 400ml"

4. On January 10, 2001, Respondent dispensed a refill on the above-referenced prescription. However, because Respondent felt the directions as entered into the computer were ambiguous, he revised the instructions. Respondent informed the Investigator that to mix the medication, he would take 2-4mg Videx bottles, mix them with 200 mls of distilled water and 200 mls of cherry Maalox. As a result, the resulting strength was 20 mgs/ml, not 10mgs/ml as prescribed.
5. Respondent incorrectly mixed and dispensed the medication on multiple occasions from January 10, 2001 thorough August 24, 2004.
6. On August 24, 2004, Waymon Gainey, RPh, saw a reprint of a prescription label for the patient that indicated the pharmacy owed the patient one bottle of 200ml Videx. RPh. did not understand why the pharmacy would owe the patient additional Videx, so he contacted the prescribing physician to confirm the strength to be mixed. After obtaining this information, he concluded that the medication had been mixed incorrectly.
7. No evidence was presented to show that the patient suffered any short-term or long-term side effects.

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 the wrong strength of Videx to a patient:
 - a. G.S. 90-85.38(a)(6), (7) and (9);
 - b. G.S. 90-85.40;

- c. G.S. 106-134.1; and
- d. 21 U.S.C. 352.

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

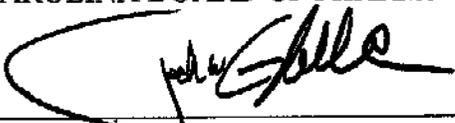
ORDERED, as follows:

1. Respondent, license number 4379, is hereby warned.
2. It is suggested to Respondent that he proactively counsel patients for any prescription that requires volume measurement.
3. 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.
4. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs.
5. Respondent shall violate no rules and regulations of the Board.
6. 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 26 day of September, 2006.

NORTH CAROLINA BOARD OF PHARMACY

By:



Jack W. Campbell, IV
Executive Director

John Elkins, the holder of License #4379, 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 #4379. 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.

John Elkins, License #4379, accepts Board member Betty Dennis's proposal in this matter.

CONSENTED TO BY: John Elkins _____ Date 8/11/06
John Elkins
License No. 4379

State of North Carolina
Cumberland County

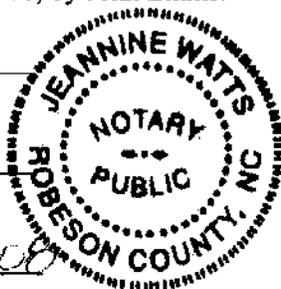
I, Jeannine Watts, a Notary Public for the above-named County and State, do hereby certify that John Elkins personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 11th day of August, 2006, by John Elkins.

Jeannine Watts
Notary Public

Jeannine Watts
Typed or Printed Notary Name



My Commission Expires 24th Nov. 2008

John Elkins, License No. 4379, does not accept the proposed Consent Order in this matter.

By: _____ Date _____
John Elkins
License No. 4379