

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF)
) **FINAL ORDER**
)
ROSS W. KENDALL)
License No. 18240)
_____)

THIS MATTER came on to be heard before the North Carolina Board of Pharmacy (the "Board") on February 16, 2010, pursuant to a Notice of Hearing, dated January 29, 2010, and was heard by Board President Robert McLaughlin, Jr. and Board Members Rebecca W. Chater, Dr. J. Parker Chesson, Jr., Dr. Betty H. Dennis, L. Stan Haywood and Wallace E. Nelson at the offices of the Board. Board staff was represented by Clinton R. Pinyan, and Respondent Ross W. Kendall ("Kendall") was represented by Michael C. Allen. The Board received a stipulation agreed to by the Parties and evidence offered without objection, and heard the testimony of witnesses. Considering the testimony and evidence, the Board hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. This matter came on for hearing pursuant to the Notice of Hearing, dated January 29, 2010. All Parties were properly before the Board, the Board has jurisdiction of the parties and of the subject matter, and Kendall received all required notice of the hearing or waived any additional notice.
2. Since June 22, 2006, Kendall has been licensed by the Board to practice pharmacy in the State of North Carolina and has been the holder of license number 18240.
3. At all times relevant hereto, Kendall served as the pharmacist-manager of CVS/Pharmacy, 4300 Highway 49 North, Harrisburg, North Carolina (Permit No. 6667).

4. In 2008 and 2009, Kendall administered twenty-two (22) influenza vaccinations to patients below the age of 18. Those administrations were as follows:

PATIENT IDENTIFIER	Date of Administration	Date of Birth	Age at Administration
Patient A	10/12/2008	11/2/1995	12 Years
Patient B	10/22/2008	10/1/1998	10 Years
Patient C	10/27/2008	12/19/1995	12 Years
Patient D	9/3/2009	4/9/1997	12 Years
Patient E	9/7/2009	4/1/2001	8 Years
Patient F	9/8/2009	9/26/1994	14 Years
Patient G	9/16/2009	11/10/2004	4 Years
Patient H	9/21/2009	6/15/1995	14 Years
Patient I	9/21/2009	12/10/1992	16 Years
Patient J	9/21/2009	2/5/1998	11 Years
Patient K	9/22/2009	5/20/1995	14 Years
Patient L	9/22/2009	12/18/1994	14 Years
Patient M	9/22/2009	12/9/1994	14 Years
Patient N	9/23/2009	6/19/2001	8 Years
Patient O	9/23/2009	3/4/2002	7 Years
Patient P	9/24/2009	8/17/1999	10 Years
Patient Q	9/28/2009	4/28/1992	17 Years
Patient R	9/28/2009	3/9/1997	12 Years
Patient S	9/28/2009	9/13/1998	11 Years
Patient T	9/28/2009	3/6/1997	12 Years
Patient U	9/29/2009	5/20/2003	6 Years
Patient A	9/29/2009	11/2/1995	13 Years

5. In addition, in September 2009, Kendall did not record or maintain certain information, readily retrievable, in the pharmacy records regarding eight (8) administrations of the influenza vaccine, as follows:

PATIENT IDENTIFIER	Date of Administration	Missing Information
Patient 1	9/2/2009	<ul style="list-style-type: none"> • The administration site of injection • Route of administration of the vaccine • The lot number and expiration date of the vaccine
Patient 2	9/14/2009	<ul style="list-style-type: none"> • The administration site of injection • Route of administration of the vaccine • The lot number and expiration date of the vaccine
Patient 3	9/14/2009	<ul style="list-style-type: none"> • The administration site of injection • Route of administration of the vaccine • The lot number and expiration date of the vaccine
Patient 4	9/14/2009	<ul style="list-style-type: none"> • The administration site of injection • Route of administration of the vaccine • The lot number and expiration date of the vaccine
Patient 5	9/16/2009	<ul style="list-style-type: none"> • The administration site of injection • Route of administration of the vaccine • The lot number and expiration date of the vaccine
Patient 6	9/16/2009	<ul style="list-style-type: none"> • The lot number and expiration date of the vaccine
Patient 7	9/16/2009	<ul style="list-style-type: none"> • The lot number and expiration date of the vaccine
Patient 8	9/21/2009	<ul style="list-style-type: none"> • The administration site of injection • Route of administration of the vaccine • The lot number and expiration date of the vaccine

CONCLUSIONS OF LAW

1 The evidence demonstrates that Kendall violated one or more of the following statutes and rules:

- a. North Carolina General Statutes § 90-85.38(a)(6);
- b. North Carolina General Statutes § 90-85.38(a)(7);
- c. 21 N.C.A.C. 46 .1803;

- d. 21 N.C.A.C. 46 .1804(a);
- e. 21 N.C.A.C. 46 .2302(a); and
- f. 21 N.C.A.C. 46. 2507.

2. Considering all of the facts and circumstances of this matter, the Board finds and concludes that the discipline set forth in this Final Order is appropriate.

It is hereby ORDERED, ADJUDGED AND DECREED that Board staff's request for discipline is hereby GRANTED, as follows:

1. Kendall's license is hereby SUSPENDED for one (1) year, to be served as follows:

a. Of that suspension, thirty (30) days shall be served as an active suspension to be served consecutively, commencing immediately upon execution of this Order. Kendall shall return his wallet card and license within three (3) days of this Order. During the term of his active suspension, Kendall may not be present in any pharmacy, except as a customer.

b. The remaining three-hundred-thirty-five (335) days of the suspension shall be stayed for one (1) year from the date of this Order, upon the following conditions:

i. Kendall shall take and pass the MPJE within six (6) months from the date of this Order. Within two (2) weeks of passing the MPJE, he shall provide written notice to the Board's Executive Director that he has fulfilled this condition;

ii. Kendall shall not serve as pharmacist-manager of any pharmacy during the term of the stayed suspension;

iii. Kendall shall not serve as a preceptor of pharmacy students during the term of the stayed suspension;

iv. Kendall shall not administer any vaccine to any patients during the term of the stayed suspension.

v. Kendall shall advise the Board promptly in writing of any change of address or change in practice status;

vi. Kendall shall violate no laws governing the practice of pharmacy or the distribution of drugs; and

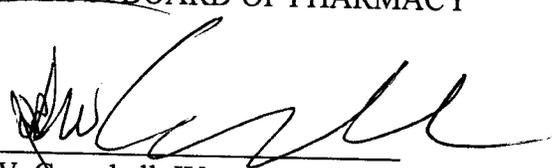
vii. Kendall shall violate no rules or regulations of the Board.

If Kendall fails to comply with any terms or conditions of this Order, he shall be subject to additional discipline.

This, the 16th day of February, 2010.

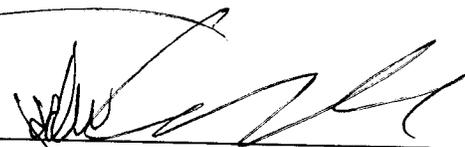
NORTH CAROLINA BOARD OF PHARMACY

By: _____


Jack W. Campbell, IV
Executive Director

CERTIFICATE OF SERVICE

I certify that on February 17, 2010, I caused a copy of this Order to be served on Michael C. Allen, counsel for Ross W. Kendall, at Cranfill, Sumner & Hartzog LLP, 5420 Wade Park Boulevard, Suite 300, Raleigh, North Carolina 27607, by registered mail, return receipt requested.



Jack W. Campbell IV
Executive Director