

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

William Andrew Merrill)
(License Number 6591)) CONSENT ORDER
)

Pursuant to G. S. § 150B-41(c), the North Carolina Board of Pharmacy (Board) and William Andrew Merrill (Respondent) have agreed to resolve this matter in accordance with the terms and conditions of this Consent Order. The Board and Respondent hereby agree as follows:

1. At all relevant times, Respondent was licensed to practice pharmacy by the Board and was the holder of license number 6591. At all relevant times, Respondent was employed as a staff pharmacist at Eckerd Drugs, permit number 6339, located at 3629 Clemmons Road, Clemmons, North Carolina (Pharmacy).

2. On August 11, 2003, the Board office in Newton, North Carolina received information regarding Respondent and the loss of Endal HD from the Pharmacy.

3. Based upon the information received, Investigator Sandra Burns commenced an investigation. During the investigation, Respondent informed Investigator Burns that Dr. John Sherrill prescribed his wife, Teresa Merrill, Endal HD (syrup). Endal HD is a Schedule III controlled substance.

4. Dr. Sherrill wrote multiple Endal HD prescriptions for Mrs. Merrill. Respondent dispensed most, if not all, of the prescriptions and refills. The prescription information, refills authorized, and refills entered/dispensed were as follows:

<u>Prescription date</u>	<u>Rx number</u>	<u>Refills authorized</u>	<u>Refills entered/dispensed</u>
1/28/03	3368222	3	(transfer)
2/14/03	3539392	3	4/3
3/4/03	3541077	2	3/3
3/24/03	3542830	3	2/2
4/11/03	3544436	5	3/3
4/22/03	3545413	6	6/5
9/25/02	3423585	5	(transfer)
9/25/02	3348329	1	5/5
11/26/02	3358092	3	1/1
12/13/02	3360888	2	3/3
1/13/03	3365801	3	2/

Multiple prescription entries show discrepancies concerning the number of refills authorized versus the number of refills entered and dispensed.

5. During the investigation, Respondent stated that the Endal HD that he dispensed and delivered was for his wife's use only.

6. On or about February 25, 2004, Respondent was charged with felony embezzlement of a controlled substance (Endal HD) in Forsyth County, North Carolina (No. 04 CR 052401). On or about May 27, 2004, Respondent pled guilty to felony embezzlement of a controlled substance.

7. On or after August 17, 2004, Respondent received a Notice of Prehearing Conference scheduling a conference at the Board offices on September 14, 2004. Respondent was present at the Prehearing Conference, and the presiding Board member issued a recommendation to the Board for resolving this case. The Board did not accept that recommendation.

CONCLUSIONS OF LAW

1. Respondent Pharmacist admits that his conduct in this matter constitutes sufficient grounds for disciplinary action on his license under G.S. 90-85.38.

2. Respondent Pharmacist violated the following statutes and rules regarding the dispensing and delivery of prescription medications:

- a. G.S. 90-85.38(a)(2), (6), (7) and (9);
- b. G.S. 90-106;
- c. G.S. 90-108;
- d. 21 U.S.C. §§829 and 842;
- e. 21 C.F.R. 1306.21 and 22;
- f. 21 N.C.A.C. 46 .1802; and
- g. 21 N.C.A.C. 46 .1805.

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

1. Respondent's license number 6591 is actively suspended for thirty (30) consecutive days. The period of suspension shall commence no later than thirty (30) days after the Board's entry of this Order.

2. Respondent's license is placed on probation for three (3) years. The period of probation shall commence on the date of this Order. The terms of probation are as follows:

- a. Respondent shall not serve as a Pharmacist Manager;
- b. Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of his practice and compliance with the terms of this Consent Order;
- c. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs; and

d. Respondent shall violate no rules and regulations of the Board.

3. 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 _____ day of _____, 2006.

North Carolina Board of Pharmacy

By: _____
David R. Work
Executive Director

STATEMENT OF CONSENT

The undersigned hereby certifies that he has read this Consent Order and that he freely and voluntarily consents to its terms and conditions. Respondent further understands that if he violates any of the terms and conditions of this Consent Order, the Board may take additional disciplinary action against his license to practice pharmacy.

This the _____ day of February, 2006.

William Andrew Merrill

#195010