

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

| | | |
|---------------------|---|---------------|
| Kave Nikbakht |) | |
| (License No. 15524) |) | 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 February 22, 2005 and was heard on that day at the Board office before Board member Stan Haywood. Also present at the conference were the following: Josh Kohler, Board Investigator; Steve Hudson, Director of Investigations and Inspections; Anna Baird Choi, Counsel for the Board; and Kave Nikbakht (Respondent Nikbakht). 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 Nikbakht is licensed to practice pharmacy by the Board and is the holder of license number 15524. At all relevant times, Respondent Nikbakht was a staff pharmacist at Eckerd Drugs located at 1909 N. Church Street, Burlington, North Carolina.
2. On March 24, 2003, the Board received a complaint alleging that on March 22, 2003, Respondent Nikbakht dispensed Reglan 10mg tablets on a prescription order for Reglan 1mg suspension.
3. On March 22, 2003, Respondent Nikbakht dispensed Reglan 10mg tablets on a prescription order for Reglan 1mg suspension. The original prescription indicated that

Reglan 1mg was to be given by mouth four times a day. The prescription did not specify that the medication was a suspension.

4. No offer of counseling was provided.
5. The patient, a three-month-old infant, was given three dosage units which the parents administered by crushing the tablets and feeding them to the infant with water.
6. On March 23, 2003, the infant showed signs of an elevated temperature, labored breathing, discomfort, and seizure-like activity. The parents took the infant to Alamance Regional Hospital; he was subsequently transferred to UNC Hospital.
7. The infant was discharged on March 23, 2003, and the parents reported that he has no lingering side effects.
8. Respondent Nikbakht accepted responsibility for the error.

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

CONCLUSIONS OF LAW

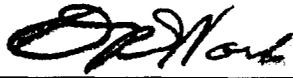
1. Respondent Nikbakht admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under G.S. 90-85.38.
2. Respondent Nikbakht violated the following statutes and rules when he failed to properly and accurately dispense medication:
 - a. G.S. 90-85.38(a)(6), (7), and (9);
 - b. G.S. 106-134.1;
 - c. 21 N.C.A.C. 46 .1805;
 - d. 21 N.C.A.C. 46 .2504; and
 - e. 21 U.S.C. 331.

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

1. Respondent's license, number 15524, shall be suspended for three (3) days, the suspension of which shall be stayed for three (3) years upon the upon the conditions set forth below.
2. Respondent shall attend an error reduction class administered by the Campbell University School of Pharmacy no later than one year from the Prehearing Conference date.
3. Within 30 days after Respondent attends the class identified above, Respondent shall submit documentation to the Board's Executive Director notifying the Board that he has attended this class.
4. 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.
5. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs.
6. Respondent shall violate no rules and regulations of the Board.
7. 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 19th day of April, 2005.

NORTH CAROLINA BOARD OF PHARMACY

By: 
David R. Work
Executive Director

Kave Nikbakht, the holder of License #15524, 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 #15524. 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.

Kave Nikbakht, License #15524, accepts Board member Stan Haywood's proposal in this matter.

CONSENTED TO BY: Kave N. Nikbakht 3/25/05
Kave Nikbakht Date
License No. 15524

State of NC
Orange County

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

Witnessed my hand and official seal

This the 25th day of March, 2005.

Maurice Cotton
Notary Public
My Commission Expires 12/05/09
MAURICE COTTON
NOTARY PUBLIC
ORANGE COUNTY, NC

Kave Nikbakht, License No. 15524, does not accept the proposed Consent Order in this matter.

By: _____ Date _____
Kave Nikbakht
License No. 15524

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