

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Robert Johnson
(License No. 5833)

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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 June 2, 2005 and was heard on that day at the Board office before Board member Wallace Nelson. Also present at the conference were the following: Josh Kohler, Board Investigator; Anna Baird Choi, Counsel for the Board; and Robert Johnson (Respondent Pharmacist). 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 Pharmacist is licensed to practice pharmacy by the Board and is the holder of license number 5833. At all relevant times, Respondent Pharmacist was employed as a staff pharmacist at two Kerr Drug locations: 529 E. Main Street, Biscoe, North Carolina (permit number 6920); and 6525 Jordan Road, Ramseur, North Carolina (permit number 6886).
2. On July 28, 2004, the Board received information from Kerr Drug management alleging that Respondent Pharmacist was filling Prevacid prescriptions using the names of staff members in order to obtain coupons for free dosage units. Additionally, it was alleged that Respondent Pharmacist was billing third party payers for these prescriptions.

- Respondent Pharmacist admitted to generating prescriptions and obtaining Previcid 30mgs, using the names of Kerr Drug staff members listed below. The dates of dispensing and location of pharmacy are also listed:

<u>Name</u>	<u>Date</u>	<u>Location</u>	<u>No. of Dosage Units</u>
Cassie Hallyburton	4/12/04	Biscoe	7-day pack
Joseph Brantley	4/12/04	Biscoe	7-day pack
Kayren Brantley	4/22/04	Biscoe	7-day pack
Dalia Mireles	4/22/04	Biscoe	7-day pack
Deborah McNeil	4/27/04	Biscoe	7-day pack
Bill Saunders	7/6/04	Biscoe	7-day pack
Charles Whitehead	7/8/04	Ramseur	7-day pack
Janice Moffitt	7/8/04	Ramseur	7-day pack
Melanie Taylor	7/8/04	Ramseur	7-day pack
Dan Prosser	7/8/04	Ramseur	7-day pack

- Respondent Pharmacist stated that all of the staff members listed above gave their permission to Respondent Pharmacist. However, all of the individuals listed above indicated to the Board Investigator that they did not give permission to Respondent Pharmacist.
- Respondent Pharmacist acknowledged that he billed the third-party insurance companies for the prescriptions listed above.

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

CONCLUSIONS OF LAW

- Respondent Pharmacist admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under G.S. 90-85.38.
- Respondent Pharmacist 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. 90-85.40;
- c. G.S. 106-134.1;
- d. 21 U.S.C. 331; and
- e. 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 Pharmacist, license number 5833, is hereby reprimanded.
2. Within one (1) year after Respondent Pharmacist signs this Consent Order, Respondent Pharmacist shall take and successfully complete the Board's Jurisprudence Examination. Respondent Pharmacist shall notify the Board's Executive Director in writing within thirty (30) days of his successful completion of the exam.
3. Respondent Pharmacist 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 Pharmacist shall violate no laws governing the practice of pharmacy or the distribution of drugs.
5. Respondent Pharmacist shall violate no rules and regulations of the Board.
6. If Respondent Pharmacist fails to comply with any terms or conditions of this Consent Order, Respondent Pharmacist may be subject to additional disciplinary action by the Board.

This the 17th day of January, 2006.

NORTH CAROLINA BOARD OF PHARMACY

By: 
David R. Work
Executive Director

Robert Johnson, the holder of License #5833, 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 #5833. 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.

Robert Johnson, License #5833, accepts Board member Wallace Nelson's proposal in this matter.

CONSENTED TO BY: Robert Johnson 11-14-05
Robert Johnson Date
License No. 5833

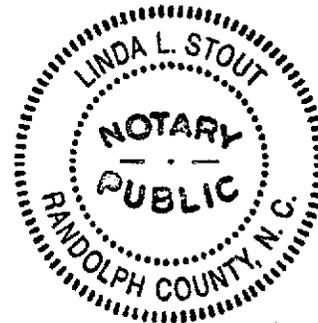
State of NORTH CAROLINA
RANDOLPH County

I, Linda L Stout, a Notary Public for the above-named County and State, do hereby certify that Robert Johnson personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 14th day of NOVEMBER 2005.

Linda L Stout
Notary Public



My Commission Expires My Commission Expires May 21, 2009

Robert Johnson, License No. 5833, does not accept the proposed Consent Order in this matter.

By: _____ Date _____
Robert Johnson
License No. 5833