

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Billy Ray Wease)

(License No. 5735))

) CONSENT ORDER
)
)

This matter is before the North Carolina Board of Pharmacy pursuant to G.S. 90-85.38, and with the consent of Billy Ray Wease (Respondent), for consideration of an entry of a Consent Order in lieu of an administrative hearing. With Respondent's consent, 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 5735. From August 1, 1995 until March 18, 2002, Respondent was employed at Medi Fare Drug Center, permit no. 5934, located at 100 Laurel Lane, Grover, North Carolina, as the pharmacist manager. From March 13, 2002 until October 27, 2003, Respondent was employed at KM Pharmacy located at 1106 Shelby Road, Kings Mountain, North Carolina, as the pharmacist manager. Respondent's license is currently active but Board records do not reflect any full-time employment as a pharmacist.

Complaint File 214.01

2. On August 21, 2001, the Board received a complaint from Joe Roberts, attorney for a patient's widow, alleging that the patient died after receiving medication dispensed by Medi Fare Drug Center.
3. Mr. Roberts informed the Board Investigator, Sandra Burns, that prior to the patient's death, the patient and his wife had entered drug detoxification programs due to their dependency on controlled substances. Mr. Roberts also informed Investigator Burns that after completing the program, the patient's wife instructed Respondent to cancel all

remaining refills on her and her husband's medications. Mr. Robert's informed Investigator Burns that the patient and his wife were patients of Dr. Joseph Talley.

4. The patient died on April 11, 2001. The autopsy report indicated that the cause of death was due to an overdose of oxycodone and paroxetine. Oxycodone is a schedule II controlled substance.
5. During an interview on September 21, 2001, Respondent informed the Investigator Burns that he recalled being instructed by the patient's wife to cancel refills on remaining prescriptions. However, he did not interpret her request to mean that he should not fill new prescriptions.
6. During her investigation, Investigator Burns documented several patients receiving large quantities of controlled substances from Medi Fare Drug Center, all prescribed by Dr. Joseph Talley and all dispensed by Respondent:

<u>Patient's initials</u>	<u>Drug prescribed</u>	<u>Quantity/Frequency</u>
RB	Oxycontin 80mg	248 units dispensed 4/10/01 248 units dispensed 5/8/01 (avg -- 8 units/day)
	Percocet 650/10mg	360 units dispensed 5/8/01
PC	Methadone 40mg	300 units dispensed 4/2/01 300 units dispensed 5/2/01 300 units dispensed 6/4/01 (avg -- 10 units/day)
BC	Methadose 10mg	500 units dispensed 4/2/01 400 units dispensed 4/20/01 (avg -- 27 units/day)
AD	Percocet 5/325mg	450 units dispensed 4/24/01 450 units dispensed 5/30/01 (avg - 12 units/day)
BD	Methadone 40mg	248 units dispensed 4/2/01 248 units dispensed 5/2/01 248 units dispensed 6/1/01 (avg -- 8 units/day)

GH Oramorph 60mg/12hr 250 units dispensed 4/24/01
240 units dispensed 5/22/01
248 units dispensed 6/21/01
(avg - 8 units/day)

Complaint File 279.01

7. On October 29, 2001, Respondent submitted an incident report to the Board regarding the death of a patient which occurred on July 5, 2001. Respondent reported the death because he believed that the death may have been due to a hydrocodone and doxepin overdose; hydrocodone is a schedule III controlled substance. Both medications had been prescribed by Dr. Joseph Talley and had been filled and dispensed by Respondent at Medi Fare Drug Center in Grover, North Carolina.
8. During an interview on February 27, 2002, Respondent informed the Board's Investigator, Tim Jones, that the patient's husband had previously informed Respondent that the patient would occasionally consume her husband's hydrocodone.
9. Upon investigation and review of the DEA 222 forms from Medi Fare Drug Center and upon review of several patient profiles, Investigator Jones documented that eight patients received early refills of controlled substances, all of which had been dispensed by Respondent. The early refills were as follows:

<u>Patient's initials</u>	<u>Medication</u>
PG	Oxycontin 20 mg (CS II)
FH	Stadol Nasal Spray (CS IV)
RH (decedent in 214.01)	Percocet 650/10mg (CS II)
LK	Alprazolam .5mg (CS IV)
CS	Alprazolam 1mg (CS IV)
KI	Alprazolam .5mg (CS IV)
WT	Hydrocodone 7.5/500 (CS III)
	Lortab 7.5 (CS III)
MG (decedent in 279.01)	Alprazolam 2mg (CS IV)
	Phentermine 30mg

Complaint File 295.01

10. On November 6, 2001, the Board received a complaint from Joe Roberts who informed the Board that a third patient of Dr. Talley's had died possibly due to an overdose of medications prescribed by Dr. Talley. The letter included documentation that showed that the decedent had obtained controlled substances from Medi Fare Drug Center in Grover, North Carolina and that the medications were dispensed by Respondent.
11. When Investigator Jones interviewed Mr. Roberts on December 4, 2001, Mr. Roberts informed Investigator Jones that the patient died on March 21, 2001 from an accidental overdose of Methadone.
12. Upon review of the medical records, Investigator Jones noted that the decedent had been a patient of Dr. Talley's since 1999 and had been prescribed Alprazolam, Tylox, Methadone, and Oxycodone during this time period.
13. The autopsy report dated March 21, 2001 indicated that Respondent's death was undetermined due to "Methadone and Alprazolam toxicity."
14. When Investigator Jones interviewed Respondent on February 27, 2002, Respondent stated that he was unaware of the patient's death.

Complaint File 305.03

15. On September 22, 2003, Respondent reported the loss of controlled substances from KM Pharmacy, permit no. 8039, located at 1106 Shelby Road, Kings Mountain, Virginia. Respondent indicated that he discovered the loss on or about September 12-13, 2003.
16. During an interview on October 3, 2003, Respondent informed Investigator Jones that when he discovered the loss, he informed the pharmacy's Chief of Security, Jim Tallon. Respondent stated that Mr. Tallon subsequently informed Respondent that DEA agents

did not want Respondent to work in the store as a pharmacist. Respondent informed Investigator Jones that he did not understand the basis of the DEA's request.

17. Respondent told Investigator Jones that he believed a former employee, Teresa Haas, had diverted the medication. Respondent provided Investigator Jones with a written statement from Kim Goude that indicated she had received Xanax from Haas on at least three occasions.
18. At the interview, Respondent provided Investigator Jones with a copy of a Voluntary Surrender of Controlled Substances Privileges that he had previously submitted to the DEA pursuant to their request.
19. Respondent stated that he was prompted to audit the schedule II controlled substances due to a call from a doctor's office where Haas was a patient. The caller stated that Haas had altered the quantity on a prescription.
20. Respondent stated that he had worked with Haas previously at Medi Fare Drug Center in Grover, North Carolina. Respondent stated that during the transition between the closing of Medi Fare Drug Center and the opening of KM Pharmacy, Haas assisted in the move. Respondent stated that while employed at KM Pharmacy, Haas had a key to the facility and knew the security code for the store alarm system.
21. On October 14, 2003, Investigator Jones conducted an audit at KM Pharmacy of the controlled substances listed below and documented the following overages/losses:

<u>Medication</u>	<u>Overage/(Loss)</u>
Alprazolam .25mg	(589)
Xanax .25mg	0
Alprazolam .5mg	695
Xanax .5 mg	427
Alprazolam 1mg	(4651)
Xanax 1mg	110
Alprazolam 2mg	(53186)
Xanax 2mg	197

Xanax XR .5mg	(60)
Xanax XR 1mg	0
Xanax XR 2mg	(30)
Vicoden 5/500	68
Hydrocodone/APAP 5/500	1286
Lorcet 10/650	(501)
Hydrocodone/APAP 10/650	(8786)
Dilaudid 4mg	(200)
Hydromorphone 4mg	0
OxyContin 40mg	(209)
OxyContin 80mg	(3)
Morphine Sulfate 60mg ER	(154)
Methadone/dose 10mg	(99)
Methadone/dose 40mg	(62)
Total overage:	2783
Total loss:	(68,530)

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 failed to properly dispense medication and monitor inventories of controlled substances:
 - a. G.S. 90-85.38(a)(6), (7), and (9);
 - b. G.S. 90-85.40;
 - c. G.S. 90-106;
 - d. G.S. 90-108;
 - e. G.S. 106-134.1;
 - f. 21 N.C.A.C. 46 .1804;
 - g. 21 N.C.A.C. 46 .1805;
 - h. 21 N.C.A.C. 46 .2502(d);

- i. 21 U.S.C. 842;
- j. 21 U.S.C. 353; and
- k. 21 C.F.R. 1306.11 and .21.

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

ORDERED, as follows:

1. Respondent Pharmacist, license number 5735, is hereby revoked.
2. The revocation is stayed indefinitely upon the following conditions:
 - a. Respondent's license is actively suspended for a period of thirty (30) consecutive days. The thirty (30) day suspension shall commence on the day this Order is approved by the Board;
 - b. Respondent shall take and pass the MPJE within ninety (90) days of the Board's approval of this Order;
 - c. Respondent shall contact NCPRN within thirty (30) days of the Board's approval of this Order and he shall be evaluated by NCPRN for a possible substance abuse problem. If NCPRN deems him to have a substance abuse problem, Respondent shall enter into and successfully complete a five-year NCPRN contract;
 - d. Respondent shall be subjected to unannounced drug screens by the Board or its agents to be performed at his own expense and shall supply urine, blood, hair, nail or any other bodily fluid or tissue sample required for the screening. Results of the screening shall not disclose the presence of any controlled substances, prescription drug, or alcohol which was not previously prescribed for Respondent by a practitioner acting in the normal course of medical treatment;

- e. Respondent shall not serve as pharmacist-manager;
- f. Respondent shall not serve as a preceptor of pharmacy students;
- g. Respondent shall obtain prior approval of employment as a pharmacist from the Board's Executive Director;
- h. 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;
- i. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs; and
- j. 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 16 day of September, 2006.

NORTH CAROLINA BOARD OF PHARMACY

By:



Jack W. Campbell, IV

Billy Ray Wease, the holder of License #5735, 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 #5735. 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.

Billy Ray Wease, License #5735, accepts the Consent Order in this matter.

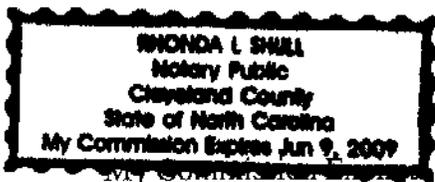
CONSENTED TO BY: Billy Ray Wease 5.30.06
Billy Ray Wease Date
License No. 5735

STATE OF NORTH CAROLINA

COUNTY OF Cleveland

I, Rhonda L. Shull, the undersigned Notary Public of the County and State aforesaid, certify that Billy Ray Wease personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purposes therein expressed. I have received satisfactory evidence of the principal's identity in the form of drivers license.

Witness my hand and Notarial stamp or seal this the 30 day of May, 2006.



Rhonda L. Shull
Notary Public
Rhonda L. Shull
Typed or Printed Name of Notary

6.09.09

Billy Ray Wease, License No. 5735, does not accept the Consent Order in this matter.

By: _____ Date _____
Billy Ray Wease
License No. 5735