



North Carolina Board of Pharmacy

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Published to promote voluntary compliance of pharmacy and drug law.

Item 1086 – Disciplinary Actions

Consent Orders

Renee Snyder, Smethport, Pa (DOB August 20, 1972).
 Consent Order entered. Action taken against license in Pennsylvania dated August 21, 1998, adopted as an action by the North Carolina Board of Pharmacy. Accepted by Snyder April 18, 2000; accepted by Board May 16, 2000.

Douglas F. Coventry, Virginia Beach, Va (DOB March 8, 1963). Consent Order entered. Action taken against license in Virginia dated February 23, 2000. Accepted by Coventry June 15, 2000; accepted by Board May 16, 2000.

Full Board Hearing

Samuel E. Lowman, Charlotte (DOB April 29, 1945).
 Medication error committed. Official Board Reprimand.

Reinstatement of License

Harry M. Umphlett, Elizabeth City (DOB June 11, 1933).
 License eligible for reinstatement after meeting specific Board conditions.

Prehearing Conferences

Peter Cocchieri, Min Hill, (DOB October 18, 1959) and CVS Pharmacy, 625 E Roosevelt Blvd, Monroe (Permit #6729). Heard by Board member Watts. Violation of patient counseling rule. Recommendation: Letter of Warning to both the pharmacist and the pharmacy. Accepted by Cocchieri June 5, 2000; accepted by James Patrick, pharmacist-manager on behalf of CVS Pharmacy, Monroe, June 12, 2000; accepted by the Board June 20, 2000.

Donna Hinson, Whiteville, (DOB April 25, 1973) and McNeill's Long Term Care Pharmacy (Permit #7236), Whiteville. Heard by Board member Crocker. Dispensing error and dispensing prescription drugs without proper authorization. Recommendation: Letter of Reprimand be issued to Donna Hinson and that McNeill's Long Term Care Pharmacy develop and

implement a Policy and Procedure to provide guidance for its staff to follow when authorization for critical need meds cannot be obtained from the primary physicians of long term care facilities and other conditions. Accepted by Hinson June 13, 2000; accepted by John Watson, pharmacist-manager, on behalf of McNeill's Long Term Care Pharmacy, Whiteville; accepted by the Board June 20, 2000.

Terry H. Humphrey, Charlotte (DOB November 3, 1955).
 Heard by Board member Overman. Violation of patient counseling rule. Recommendation: Letter of Caution. Accepted by Humphrey May 25, 2000; accepted by the Board June 20, 2000.

Jim Street, Roxboro, (DOB November 4, 1929) and CVS Pharmacy, 900 N Madison Blvd, Roxboro (Permit #6764). Heard by Board member Watts. Dispensing error. Recommendation: Letter of Reprimand to pharmacist Street; permit for pharmacy be suspended one day, stayed two years with conditions. Accepted by Street June 6, 2000; accepted by Theodore C. Michie, pharmacist-manager, on behalf of CVS Pharmacy, Roxboro, June 6, 2000; accepted by Board June 20, 2000.

Ricky D. Trivette, Banner Elk (DOB June 6, 1963).
 Heard by Board member Overman. Consideration of request that pharmacy license be reinstated; violation of Board Order of June 1999. Recommendation: License suspended indefinitely with specific conditions. Accepted by Trivette June 1, 2000; accepted by the Board June 20, 2000.

Item 1087 – New Rules Effective August 1

Two significant new Board rules came into effect on August 1, 2000. These rules can be found on the Board's Web site at www.ncbop.org.

The first rule is the portion of the Board's rules on hospital pharmacy, which deals with access to the pharmacy after hours, Section .1413, now provides that a nurse trained and authorized by the pharmacist-manager may enter the pharmacy after hours and remove products. The

Continued on page 4

pharmacist-manager must develop a list that includes, among other things, drugs which are restricted and can only be dispensed after contacting the “on call” pharmacist. Other provisions also apply.

Another rule which has generated some discussion in the press is Section .1804(b). This new section states that pharmacists cannot be required to deal with parties, including managed care organizations, outside the practitioner-pharmacist-patient relationship. The intent of this rule is to be sure that pharmacists have sufficient time for patient counseling and drug use review as required elsewhere in the Board’s rules.

Other newly adopted rules can be found in the New Development section of the Board’s Web site including one (.1816) on centralized processing of prescriptions and one (.1508) on prerequisites for the Disease State Management (DSM) examinations.

Item 1088 – Foreign Prescriptions

Questions arise from time to time about the propriety of dispensing drugs pursuant to a prescription written by a physician in a foreign country. Board staff has no objection to filling and dispensing such prescriptions provided that the pharmacist is assured that there is a physician-patient relationship. No such prescription should be dispensed if written for a controlled substance, primarily because foreign prescribers are not Drug Enforcement Administration (DEA) registrants.

Questions arise also on the propriety of filling prescriptions for controlled substances from prescribers in another state. There is a conflict between Board statute and the state Controlled Substances Act on this issue. The state Controlled Substances Act says that such prescriptions must be limited to practitioners who are licensed in this state. The state Pharmacy Practice Act states that a prescription order is valid if it is issued by “a person authorized by law to prescribe” which would include out of state prescribers.

The Board staff adheres to the definition in the Pharmacy Practice Act, and no one has been prosecuted for filling a controlled substance prescription from an out-of-state prescriber and none is anticipated.

Item 1089 – Replacement of Pharmacist-Managers

When a pharmacist-manager leaves a position, the Board has traditionally allowed management up to 30 days to find a replacement. During this time, pharmacist coverage must be in place for prescriptions to be dispensed following the statutes and rules, including the Board’s interpretation of the use of pharmacy technicians.

Pharmacists need to be aware that the Board is beginning to adopt a more firm view on this issue. Failure or refusal to obtain a pharmacist-manager within 30 days may produce a disciplinary action by the Board.

Item 1090 – Dispensing Procedures

Some pharmacies use a dispensing system where one pharmacist enters the prescription order into the computer system and another pharmacist is responsible for verifying the accuracy of the finished product. This item is a reminder that

a record of both the order-entry pharmacist and the verifying-pharmacist needs to be maintained as part of pharmacy records. The name of the pharmacist who performs the final check on the prescription product and document must be on the label affixed to the vial. Computer systems that operate by having only one pharmacist name in the computer for the entire day, when more than one pharmacist is dispensing, produce inaccurate records which is a violation of Board rule.

Item 1091 – Pharmacy Technicians

Questions arise constantly regarding the status of pharmacy technicians in this state. At the present time, pharmacy technicians do not need to register with the Board, and certification is not required.

Many pharmacists think that certifying technicians is a positive action, and anyone interested in this activity can get more information from the Pharmacy Technician Certification Board, 2215 Constitution Avenue, NW, Washington, DC 20007, phone 202/429-7576 or by visiting its Web site at www.ptcb.org.

The Board staff has learned of a service that provides continuing education (CE) for pharmacy technicians. More information can be found at www.continuingeducation.com/pharmtech. This is not an endorsement of the program; it is merely provided as a service since questions continually arise on this issue.

Item 1092 – Prompt Claim Payment Law

The North Carolina Department of Insurance has issued a memo dated August 16, 2000, regarding the adoption by the General Assembly of a statute with “prompt pay” requirements. You can find more information about this statute by visiting the “Industry Section” of the Department of Insurance Web site at www.NCDOL.com.

Item 1093 – DEA Numbers on Prescriptions

North Carolina state statute provides that all written prescriptions must have the printed name, address, telephone number, and Drug Enforcement Administration (DEA) number of the prescriber. See 106-134.1(a)(4)(a). This applies to all written prescriptions but does not apply to telephone prescriptions. There are no limitations on who must provide this material so it is possible that office personnel or the pharmacist could provide any absent information. While the statute does apply to all prescriptions, the Board inspection and investigative staff only enforces it for controlled substances.

Item 1094 – Forgery Notices

As of November 1, the Board will change its procedure on notifying pharmacists regarding prescription forgeries. For many years the Board has sent by mail notices of prescription forgeries or other

Continued from page 4

schemes to divert prescription drugs, usually controlled substances.

Over the years this practice of giving notice by mail has become tedious and increasingly expensive. During the last calendar year, the Board spent more than \$5,000 on postage for this activity, and it consumed numerous hours of employee time for copying, folding, and envelope stuffing. There is no doubt that communication by e-mail will be more efficient and less costly, particularly when e-mail services are available free at many places on the Internet.

As of November 1, the Board will change its procedure and issue such notices only by e-mail. If you want to be placed on this notice list, please contact Ryan Smith, the Board's Information Technologist at rsmith@ncbop.org or at 919/942-4454, ext. 34. Both pharmacists and pharmacies are welcome on this list.

Item 1095 – CE Credit

After much discussion at a recent Board meeting, it was the consensus of the Board that pharmacists attending graduate school not related to professional practice in the health care field would not be granted continuing education (CE) credit for that activity. Specifically the Board will not accept, beginning in the year 2001, attendance at divinity school, master's in business administration, master's in public administration, and other such programs not directly related to health care.

The Board will accept attendance in medical school, dental school, PharmD programs, physician assistant, and nurse practitioner courses. Naturally, the Board will continue to accept all American Council on Pharmaceutical Education (ACPE), or equivalent courses in other professions, as well as any program offered by AHEC, the two schools of pharmacy in the state or their equivalents for pharmacists residing in other states.

Item 1096 – Online Renewals

Not this year but next, we are planning to institute a renewal process online. We are planning to institute this service for the 2002 renewal year and want all pharmacists to be aware of this alternative in the future. We expect to have things in place to institute this process about one year from now.

Item 1097 – NTI Drugs on Medicaid

Medicaid beneficiaries are treated somewhat differently under state law than other prescription recipients. There is a provision which states that all prescriptions written for Medicaid beneficiaries are presumed to be written generically regardless of how they appear on the orders.

There is no such exemption for Narrow Therapeutic Index (NTI) drugs, and pharmacists should be aware of this situation. In other words, there is no

automatic override to change manufacturers of prescriptions dispensed for NTI drugs. A current list of NTI drugs follows. As of October 1, 1999, the list is:

- ◆ Carbamazepine [Tegretol, various others]
- ◆ Cyclosporine
- ◆ Digoxin [Lanoxin and others]
- ◆ Ethosuximide
- ◆ Levothyroxine sodium tablets [Levothroid, Levoxyl, Synthroid, various others] Lithium [Eskalith, Cibalith]
- ◆ Phenytoin [Dilantin]
- ◆ Procainamide Hydrochloride
- ◆ Theophylline [Elixophyllin, Slo-Phyllin, Slo-bid Gyrocaps, Theochron, Theo-Dur, Theo-24, Uniphyll]
- ◆ Warfarin sodium tablets [BMS Warfarin, Coumadin, Warfarin]

Item 1098 – Sending Prescriptions for Schedule II Drugs

At one time postal rules prohibited the mailing of narcotics, but this provision of rules has been repealed. Prescriptions for all controlled substances can be mailed or sent by private carriers, such as Federal Express or UPS, but Board staff recommends that any such delivery be verified with the signature of the recipient.

Item 1099 – DME for Medicaid Recipients

It is possible for Medicaid recipients to obtain Durable Medical Equipment (DME) from pharmacies and have these items paid for through the Medicaid system. Pharmacists should note, however, that this is a separate program from payment for pharmaceuticals, and they need to contact Medicaid to be sure they are properly registered for this activity.

Information on this subject can be obtained by dialing 1-800/662-7030.

Item 1100 – Emergency Dispensing Rules

Pharmacists may wish to review the rules on emergency dispensing at .1809 and .1815. In the normal situation, where all refills have been used and the patient requests another refill, the rules under .1809 apply. This, of course, does not apply to Schedule II drugs, but pharmacists, using their judgment, can dispense up to a 30-day supply under these conditions.

In the case where a practice is dissolved, or a physician leaves town or dies, the provision under section .1815 comes into effect. This section provides for up to a 90-day supply, depending on the pharmacist's judgment under the circumstances. Please review these sections of the Board's rule to be sure you completely understand your situation. If you do not have a law book available, you can find the material on our Web site at www.ncbop.org under "Drug Law."

Item 1101 – Samples

The federal rules on samples are effective in December of this year, and the Food and Drug Administration (FDA) apparently plans to consider each situation on an individual basis. An informal opinion letter issued by an FDA official for a community mental health program may be helpful to pharmacists understanding the situation.

Continued on page 6

Continued from page 5

This mental health center has a combination of federal, state, and local funding to provide health care and medication to indigent patients in a five-county area. The center has a contract with several retail pharmacies to dispense prescription drug samples to patients of the center pursuant to prescriptions written from center practitioners. Samples are requested from the manufacturer by center practitioners, and these samples are then transported to several contract retail pharmacies in the area.

While the Prescription Drug Marketing Act limits the distribution of samples to licensed practitioners in hospitals, FDA believes that the presence of drug samples in a retail pharmacy is probative and that samples are being sold, purchased, traded, or distributed in violation of the Prescription Drug Marketing Act (PDMA).

The agency does realize that state and local governments may have established programs that do provide for the dispensing of legitimate samples through retail pharmacies, and it would be unwise to unduly interfere with such government-established programs.

The FDA did not object to the program described above providing that the samples were dispensed at no cost to the patient, including the charge of a dispensing fee. It was also stipulated that samples should not be stored with retail stock and should be only distributed to indigent patients as noted above.

Please note that another FDA opinion on this subject can be found at Item 1059 in the Board's *Newsletter*.

Item 1102 – We're 37th, We're 37th!

About this time of year, it's common for college students and alumni, usually at the end of a game, to chant "We're Number 1!" You may have heard this kind of statement about the health care system in the United States as being superior to any other in the world.

While that may be standard American hubris, it is not necessarily the prevailing world view. The World Health Organization, and agency of the United Nations, in its World

Health Report 2000 ranks the United States as 37th in overall health system performance, behind such countries as Iceland at 15, Colombia at 22, and Canada at 30. France is listed as number one.

While it is true that physicians, pharmacists, nurses, hospital administrators, and pharmaceutical manufacturers all make more money in the United States than in any other country, income is not the only measure of success.

Item 1103 – Insurance Information

A document from the Department of Insurance explains when and how the Department can assist health care providers in their dealings with health insurers. It also gives useful contact information for other state and federal agencies relevant to health plans not under the Department's jurisdiction and answers questions frequently asked by health care providers. You can access this at their Web site www.NCDOI.com, and it can be printed out from that address.

Item 1104 – Guardian Ad Litem

Questions have arrived in the Board office about the appropriateness of requests from a person who is a Guardian Ad Litem for a child. It is in the opinion of the Board staff that pharmacists can respond positively to information requests from a Guardian Ad Litem of a child. The basis for this opinion is found in North Carolina Statutes 7 (b) 601 (c) and also 90-85.36 (1) (2) and (9).

Page 6 – November 2000

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