BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

| | | |
|---|---|---|
| Walgreens Pharmacy<br>(Permit No. 7242) | )<br>)<br>) | CONSENT ORDER |

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46 .2008 on August 22, 2006. Board member Stan Haywood presided. Also present at the conference were the following:

- Holly Price, Board Investigator;
- Karen Matthew, Director of Investigations and Inspections;
- Anna Baird Choi, Counsel for the Board;
- Helen Fong, RPh.;
- Dwayne Pinon;
- Greg A. Myers, District Manager for Walgreens;
- Tracy Jolley, RPh.; and
- Kristen King, Attorney for Jolley and Walgreens.

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. Walgreens Pharmacy ("Respondent") is the holder of permit number 7242 and is located at 8538 N. Tryon Street, Charlotte, North Carolina. At all relevant times, Tracy Jolley, RPh., was employed by Respondent as a staff pharmacist.
2. On December 6, 2005, the Board received a complaint from a patient who alleged that she had received Toprol 100mg on a prescription order for Toprol 50mg.
3. The investigation produced evidence to show that the patient picked up her prescription on November 17, 2006 and consumed one dosage unit on November 22, 2006. Prior to taking a second dosage unit, the patient noticed that the tablets did not look like tablets

received in prior dispensings so she contacted the Respondent. During her phone call with pharmacy staff, she was told that the medication in her possession was Toprol 100mg and not Toprol 50mg.

4. The investigation produced evidence to show that RPh. Jolley dispensed Toprol 100mg on a prescription order for Toprol 50mg. The label on the vial indicated that the contents should have been Toprol 50mg.

5. During the investigation, staff at Respondent pharmacy attempted to obtain label reprints and incident reports per the Board Investigator's request. However, staff was unable to print any of these documents. Staff was also unable to provide the Board Investigator with information regarding daily dispensing totals. Additionally, staff informed the Board Investigator that they had been instructed not to give Board Investigators any information such as information pertaining to pharmacist-to-technician ratios.

6. On January 3, 2006, the Board Investigator presented a written request for records previously requested of pharmacy staff to Greg Myers, District Manager. As of the date of the conference, the Investigator had not received these records.

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 its permit under G.S. 90-85.38.

2. Respondent violated the following statutes and rules when one of its pharmacists dispensed and delivered the wrong medication. Additionally, Respondent violated the following rules and statutes when it did not comply with the Board's request for records:

a. G.S. 90-85.38(a)(6), (7) and (9);

b. G.S. 90-85.40;

c. G.S. 90-85.47;

d. G.S. 106-122;

e. G.S. 106-134.1;

f. 21 N.C.A.C. 46 .1805; and

g. 21 U.S.C. 331, 352 and 353.

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

1. Respondent, permit number 7242, is hereby suspended for five (5) consecutive business days, commencing on a Monday and ending on the following Friday. This suspension is stayed for two (2) years upon the conditions set forth below.

2. Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of its practice and compliance with the provisions of this Consent Order.

3. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs.

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

5. 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 21st day of November, 2006.

NORTH CAROLINA BOARD OF PHARMACY

By: _____
Jack W. Campbell, IV
Executive Director

I, Bill Sonner, (name), the undersigned, am Divisional Director (title) for the holder of permit #4272 and am authorized to sign this Consent Order. I have full knowledge that the permit holder has the right to a hearing and to be represented by counsel in this matter. I freely, knowingly, and voluntarily waive such right by entering into this Consent Order on behalf of Permit #4272. I understand and agree that by entering into this Consent Order, I certify that I have read the foregoing Consent Order and that that the permit holder 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. I further understand that should the permit holder violate the terms and conditions of this Consent Order, the Board may take additional disciplinary action. I understand and agree that this Consent Order will not become effective unless and until approved by the Board.

Bill Sonner, Divisional Director on behalf of permit #4272, **accepts** Board member Stan Haywood's proposal in this matter.

CONSENTED TO BY: _____ 10-31-06

Name: Bill Sonner
Title: Divisional Director, Southern Operations

Date

State of Illinois _____ Cook _____ County

I, Karen A. Kessler, a Notary Public for the above-named County and State, do hereby certify that Bill Sonner personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 31st day of October, 2006, by _____.

Karen A. Kessler
Notary Public

Karen A Kessler
Typed or Printed Notary Name

OFFICIAL SEAL
KAREN A KESSLER
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:09/20/09

My Commission Expires 9/20/09

* * * * * * * * * * * *

_____, _____ on behalf of permit #4272, **does not accept** the proposed Consent Order in this matter.

By: _____ _____
Name: Date
Title:

#200652