

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Drexel Discount Drug Rite)	
(Permit No. 5954))	CONSENT ORDER
John Heilman)	
(License No. 7796))	

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46 .2008 on October 16, 2006. Board member Betty Dennis presided. Also present at the conference were the following: Amy Cook, Board Investigator; Karen Matthew, Director of Investigations and Inspections; Anna Baird Choi, Counsel for the Board; and RPh. John Heilman (Respondent Heilman) who appeared in his capacity as the owner of Drexel Discount Drug Rite (Respondent Pharmacy) and as a licensed 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 Heilman is licensed to practice pharmacy by the Board and is the holder of license number 7796. At all relevant times, Respondent Heilman was employed at Respondent Pharmacy located at 2728 US 70 E, Morganton, North Carolina as the pharmacist manager.
2. On or before March 27, 2006, the Board received a complaint from Dr. Anne Gonzalez alleging that a pharmacist at Respondent Pharmacy had dispensed Plavix to one of her patients with incorrect dosing instructions.

3. The investigation produced evidence to show that on June 1, 2005, Respondent Heilman dispensed Plavix 75 mg to Dr. Gonzalez's patient. The instructions on the prescription instructed the patient to "take one tablet daily." Respondent Heilman dispensed the medication with directions to "take one tablet every four to six hours as needed for pain." Additionally, though the medication was prescribed by Andrew Call, P.A., Dr. Gonzalez was listed on the label as the prescribing physicians.
4. The patient consumed four times the prescribed amount for approximately three days. The patient subsequently suffered sub-conjunctival hemorrhages in both eyes. The investigation produced no evidence of any long-term harm or side effects.
5. During the investigation and at the prehearing conference, Respondent Heilman explained that on the date the prescription was dispensed, the sig code on the pharmacy computer would default to "take one tablet every four to six hours." He stated that the computer would also default to the prior prescriber as the prescribing physician. At the prehearing conference, Respondent Heilman stated that the computer system no longer provides default directions, though it still defaults to the most recent prescriber as the prescribing physician.

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

CONCLUSIONS OF LAW

1. Respondent Heilman admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under G.S. 90-85.38.
2. Respondent Pharmacy admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on its permit under G.S. 90-85.38.

3. Respondent Heilman violated the following statutes and rules when he failed to properly and accurately dispense medication:

- a. G.S. 90-85.38(a)(6) and (7);
- b. G.S. 90-85.40;
- c. G.S. 106-134.1; and
- d. 21 U.S.C. 331 and 352.

4. Respondent Pharmacy violated the following statutes and rules when one of its pharmacists failed to properly and accurately dispense medications:

- a. G.S. 90-85.38(a)(6) and (7);
- b. G.S. 90-85.40;
- c. G.S. 106-134.1; and
- d. 21 U.S.C. 331 and 352.

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

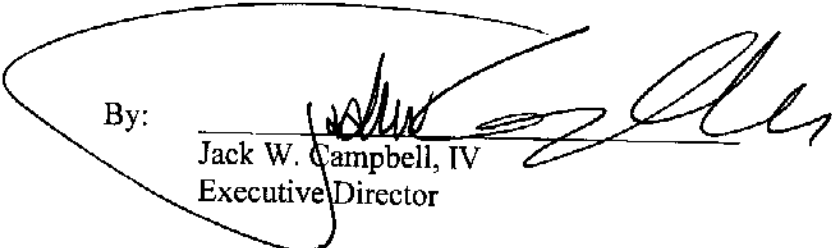
1. Respondent Heilman, license number 7796, is hereby cautioned.
2. Respondent Pharmacy, permit number 5954, is hereby cautioned.
3. The Respondents shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of their practice and compliance with the provisions of this Consent Order.
4. The Respondents shall violate no laws governing the practice of pharmacy or the distribution of drugs.
5. The Respondents shall violate no rules and regulations of the Board.

6. If the Respondents fail to comply with any terms or conditions of this Consent Order, the Respondents may be subject to additional disciplinary action by the Board.

This the 16th day of January, 2007.

NORTH CAROLINA BOARD OF PHARMACY

By:


Jack W. Campbell, IV
Executive Director

John Heilman, the holder of License #7796, 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 #7796. 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.

John Heilman, License #7796, accepts Board member Betty Dennis' proposal in this matter.

CONSENTED TO BY: JAMH 12/21/06
John Heilman Date
License No. 7796

State of NC Burke County

I, Phyllis SWEETZ, a Notary Public for the above-named County and State, do hereby certify that John Heilman personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 21 day of DECEMBER, 2006.

Phyllis Sweetz
Notary Public

Phyllis SWEETZ
Typed or Printed Notary Name

My Commission Expires 11-6-07

John Heilman, License No. 7796, does not accept the proposed Consent Order in this matter.

By: _____
John Heilman Date
License No. 7796

I, John M Heilman, (name), the undersigned, am President (title) for the holder of permit #5954 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 #5954. 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.

John M Heilman, President on behalf of permit #5954, accepts Board member Betty Dennis' proposal in this matter.

CONSENTED TO BY:

Name: John M Heilman Date: 12/21/06
Title: President

State of NC

BURKE County

I, Phyllis Sweezy, a Notary Public for the above-named County and State, do hereby certify that John Heilman personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 21 day of DECEMBER, 2006.

Phyllis Sweezy
Notary Public

Phyllis SWEezy
Typed or Printed Notary Name

My Commission Expires 11-6-07

_____ on behalf of permit #5954, does not accept the proposed Consent Order in this matter.

By: _____
Name: _____ Date: _____