

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

American Health Services)
(DME Permit Number 180)) FINAL DECISION
)
)

THIS MATTER came on for hearing pursuant to a Notice of Hearing ("Notice") scheduling Respondent to appear for before the Device and Medical Equipment Committee of the North Carolina Board of Pharmacy ("Board") to determine whether or not American Health Services ("Respondent"), which holds DME Permit No. 180, violated North Carolina General Statute §90-85.38(a)(6), (7) and (8), and (b), which provides that the Board may issue a letter of reprimand or suspend, restrict, revoke or refuse to grant or renew a license or permit or require a licensee or permit holder to complete remedial education if the licensee or permit holder:

- "(6) Failed to comply with the laws governing the practice of pharmacy and the distribution of drugs;
- (7) Failed to comply with the rules and regulations of the Board; and
- (8) Engaged in, or aided and imbedded an individual to engage in, the practice of pharmacy without a license."

The Notice set forth specific factual allegations and scheduled a hearing for September 25, 2002. The hearing was conducted on that date at the Board office before the Device and Medical Equipment Committee ("Committee"), at which evidence was presented in the form of testimony and exhibits. At the commencement of the hearing, Respondent stipulated to paragraph 1 of the Notice. Based upon the record in this proceeding and the testimony, exhibits, and stipulations presented at the hearing, the Committee makes the following:

FINDINGS OF FACT

1. At all relevant times, Respondent was the holder of DME Permit Number 180, which is for a location at 750 North Sandhill Boulevard, Aberdeen, North Carolina.
2. Pursuant to information indicating that Respondent dispensed and delivered prescription drugs to patients, Board Inspector Jennifer Zolty commenced an investigation on June 18, 2001. Inspector Zolty's investigation continued through December, 2001.
3. Inspector Zolty's investigation revealed that Respondent maintained a supply of prescription medications Albuterol and Ipratropium Bromide. The prescription medications would be delivered to customers of Respondent by Respondent's employees.
4. The prescription medications were delivered to customers without Respondent first receiving prescriptions, and the medications did not have patient specific labeling.

CONCLUSIONS OF LAW

The actions of Respondent in maintaining a supply of prescription medications, and dispensing and delivering the prescription medications to customers, as described above, and without Respondent holding a pharmacy permit, constitute violations of G.S. §§90-85.21, 90-85.38(a)(6), (7), and (8) and (b), 106-134.1, 21 U.S.C. § 353, 21 N.C.A.C. 46.1608(a)(9), and .1805.

IT IS, THEREFORE, ORDERED, that Respondent's DME permit is suspended for a period of one year, which suspension is stayed for a period of two (2) years upon the following conditions:

1. Respondent's shall violate no laws governing the practice of pharmacy or the distribution of drugs.
2. Respondent shall violate no rules or regulations of the Board.
3. Respondent shall be subject to random unannounced inspections by the Board or its authorized agents.

#197397

This the 12th day of October, 2006.

NORTH CAROLINA BOARD OF PHARMACY

By: 

Jack W. Campbell, IV
Executive Director