

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

William Timothy Bratton
(License No. 9004)

Drugco Discount Pharmacy
(Permit No. 5053)

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CONSENT ORDER

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46 .2008. This conference was scheduled for September 23, 2003 and was heard on that day at the Board office before Board member Stan Haywood. Also present at the conference were the following: Josh Kohler, Board Investigator; Steve Hudson, Director of Investigations and Inspections; David R. Work, Executive Director; Anna Baird Choi, Counsel for the Board; Gene Minton, owner of Drugco Discount Pharmacy (Respondent Pharmacy); Doug Brocker, counsel for Respondents; and William Timothy Bratton (Respondent Bratton). 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 Bratton is licensed to practice pharmacy by the Board and is the holder of license number 9004. Respondent Pharmacy is the holder of permit number 5053 and is located at 107 Smith Church Road, Roanoke Rapids, North Carolina. At all relevant times, Respondent Bratton was the Pharmacist Manager at Respondent Pharmacy.

2. On January 15, 2003, the Board received a complaint alleging that on December 23, 2002, Respondent Pharmacy dispensed Methadone 10mgs on a prescription order for Methadone 5mgs.
3. On December 23, 2002, Respondent Bratton dispensed Methadone 10mgs instead of Methadone 5mgs. The label on the bottle indicated that the prescription was for Methadone 10mgs with directions to take one tablet four times a day. 124 dosage units were dispensed.
4. The patient contacted her physician for a refill on January 13, 2003. When staff from the physician's office contacted Respondent Pharmacy, pharmacy staff discovered that the wrong medication had been dispensed on December 23, 2002.
5. The patient was pregnant at the time she received the incorrect medication on December 23, 2003. The patient delivered her baby on January 19, 2003. Though the baby went through a subsequent detoxification process, there was no indication of any long-term side effects to the patient or the patient's baby.
6. Respondent Bratton accepted responsibility for the error.

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

CONCLUSIONS OF LAW

1. Respondent Bratton 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 Bratton violated the following statutes and rules when he failed to properly and accurately dispense medication:
 - a. G.S. 90-85.30;
 - b. G.S. 90-85.38(a)(6), (7), and (9);
 - c. G.S. 106-134.1;
 - d. 21 N.C.A.C. 46 .1805; and
 - e. 21 U.S.C. 331 and 353.
4. Respondent Bratton violated the following statutes regarding the sale and delivery of a controlled substance:
 - a. G.S. 90-95;
 - b. G.S. 90-106(c);
 - c. G.S. 90-108; and
 - d. 21 U.S.C. 829 and 21 CFR 1306.21.
5. Respondent Pharmacy violated the following statutes and rules when it failed to properly and adequately dispense medication:
 - a. G.S. 90-85.30;
 - b. G.S. 90-85.38(a)(6), (7), and (9);
 - c. G.S. 106-134.1;
 - d. 21 N.C.A.C. 46 .1805; and
 - e. 21 U.S.C. 331 and 353.
6. Respondent Pharmacy violated the following statutes regarding the sale and delivery of a controlled substance:
 - e. G.S. 90-95;

- f. G.S. 90-106(c);
- g. G.S. 90-108; and
- h. 21 U.S.C. 829 and 21 CFR 1306.21.

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

1. Respondent Bratton, license number 9004, is hereby reprimanded.
2. Respondent Pharmacy, permit number 5053, is hereby warned.
3. Respondents 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.
4. Respondents shall violate no laws governing the practice of pharmacy or the distribution of drugs.
5. Respondents shall violate no rules and regulations of the Board.
6. If Respondents fail to comply with any terms or conditions of this Consent Order, Respondents may be subject to additional disciplinary action by the Board.

This the 18th day of January, 2005, ~~2004~~.

NORTH CAROLINA BOARD OF PHARMACY

By: David R. Work
David R. Work
Executive Director

William Timothy Bratton, the holder of License #9004, 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 #9004. 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.

William Timothy Bratton, License #9004, accepts Board member Stan Haywood's proposal in this matter.

CONSENTED TO BY: WTB 12/28/04
William Timothy Bratton Date
License No. 9004

State of North Carolina
Halifax County

I, Vickie M. Camp, a Notary Public for the above-named County and State, do hereby certify that William Timothy Bratton personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 28th day of December, 2004.

Vickie M. Camp
Notary Public

My Commission Expires 02/22/2009

William Timothy Bratton, License No. 9004, does not accept the proposed Consent Order in this matter.

By: _____
William Timothy Bratton Date
License No. 9004

I, GENE MINTON, (name), the undersigned, am OWNER (title) for the holder of permit #5053 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 #5053. 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.

GENE MINTON, 12/28/2004 on behalf of permit #5053, **accepts** Board member Stan Haywood's proposal in this matter.

CONSENTED TO BY: *Gene Minton* 12/28/2004
Name: CEO Date
Title

State of North Carolina
Halifax County

I, Vickie M. Camp, a Notary Public for the above-named County and State, do hereby certify that Gene Minton personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal
This the 28th day of December, 2004.

Vickie M. Camp
Notary Public

My Commission Expires 02/22/2009

_____, _____ on behalf of permit #5053, **does not accept** the proposed Consent Order in this matter.

By: _____
Name: _____ Date
Title: _____