

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

John William Gresham, Jr.)	
(License No. 9925))	
)	CONSENT ORDER
Seashore Drugs)	
(Permit No. 7685))	
)	

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 March 25, 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; Tim Jones, Board Investigator; Anna Baird Choi, Counsel for the Board; and John William Gresham (Respondent Gresham). 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 Gresham is licensed to practice pharmacy by the Board and is the holder of license number 9925. Seashore Drug (Respondent Pharmacy) is the holder of permit number 7685 and is located at 1101 Yaupon Drive, Oak Island, North Carolina. At all relevant times, Respondent Gresham was employed at Respondent Pharmacy as the Pharmacist-Manager.

2. On April 5, 2002, the Board received a complaint from a pharmacist at Duke University Medical Center alleging that on March 14, 2002 and on March 25, 2002, Respondent Pharmacy dispensed a regimen of Digoxin Elixir with incorrect dosage instructions.
3. On March 14, 2002, RPh. David E. Anderson received a prescription for Digoxin Elixir on behalf of the patient, a one-month-old child. The prescription read as follows, "Digoxin liquid 8 mcgs OGT every 12 hours."
4. After consulting with another pharmacist regarding compounding prescriptions and calculations, Anderson dispensed the prescription with instructions as follows, "1.3mls every 12 hours per Oral Gastric Tube." The medication was diluted with sterile water and the final volume of the medication was 40 mls. Anderson made no notes on the original prescription to indicate how the medication should be dosed.
5. The patient's mother stated that no offer to counsel was provided to her when she obtained the prescription.
6. On March 25, 2002, Respondent Gresham dispensed the refill pursuant to the instructions shown on the pharmacy computer. The medication was dispensed with directions of "1.3 ml every 12 hours." Because the prescription was not diluted with water, this error created a ten-fold overdose.
7. The patient's mother stated that after the overdose was corrected, she was unaware of any long-term side effects resulting from the overdose. Respondent Gresham expressed regret for the error.

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

CONCLUSIONS OF LAW

1. Respondent Gresham 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 Gresham violated the following statutes and rules when he failed to properly and accurately dispense medication:
 - a. G.S. 90-85.38(a)(6), (7), and (9);
 - b. G.S. 106-134.1;
 - c. 21 N.C.A.C. 46 .1804; and
 - d. 21 U.S.C. 331 and 353.
4. Respondent Pharmacy violated the following statutes and rules when it failed to properly and accurately dispense medication and failed to provide adequate patient counseling records:
 - a. G.S. 90-85.38(a)(6), (7), and (9);
 - b. G.S. 106-134.1;
 - c. 21 N.C.A.C. 46 .2504; and
 - d. 21 U.S.C. 331 and 353.

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


1. Respondent Gresham's license, number 9925, shall be suspended for ten (10) days, the suspension of which shall be stayed for one (1) year upon the conditions set forth below:
 - a. Respondent Gresham shall, within one year from the date Respondent Gresham signs the Consent Order, attend the "Back to Basics" patient counseling program offered at Campbell University and shall provide documentation of his attendance to Steve Hudson, Director of Investigations for the Board;
 - b. Respondent Gresham 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;
 - c. Respondent Gresham shall violate no laws governing the practice of pharmacy or the distribution of drugs;
 - d. Respondent Gresham shall violate no rules and regulations of the Board; and
 - e. If Respondent Gresham fails to comply with any terms or conditions of this Consent Order, Respondent Gresham may be subject to additional disciplinary action by the Board.
2. Respondent Pharmacy, permit number 7685, is hereby warned.
3. Respondent Pharmacy shall comply with the following:
 - a. Within thirty (30) days from the date Respondent Pharmacy signs the Consent Order, Respondent Pharmacy shall develop policies and procedures to document refusals of patient counseling and shall submit a copy to Steve Hudson, Director of Investigations for the Board;

- b. Within thirty (30) days after submitting a copy of the policy and procedures to Mr. Hudson, Respondent Pharmacy shall submit copies of counseling logs to reflect the prior thirty (30) day period of counseling pursuant to the new procedures. These logs shall be submitted to Steve Hudson, Director of Investigations for the Board;
- c. Respondent Pharmacy 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;
- d. Respondent Pharmacy shall violate no laws governing the practice of pharmacy or the distribution of drugs;
- e. Respondent Pharmacy shall violate no rules and regulations of the Board;
- f. If Respondent Pharmacy fails to comply with any terms or conditions of this Consent Order, Respondent Pharmacy may be subject to additional disciplinary action by the Board.

This the 15th day of February, ²⁰⁰⁵2004.

NORTH CAROLINA BOARD OF PHARMACY

By:


David R. Work
Executive Director

John William Gresham, the holder of License #9925, 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 #9925. 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 William Gresham, License #9925, **accepts** Board member Stan Haywood's proposal in this matter.

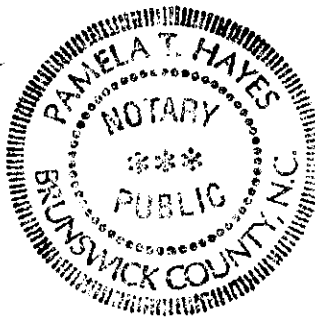
CONSENTED TO BY: John William Gresham 1-18-05
John William Gresham Date
License No. 9925

State of North Carolina
Brunswick County

I, Pamela T. Hayes, a Notary Public for the above-named County and State, do hereby certify that John William Gresham personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 18th day of January, ~~2004~~ 2005
Pamela T. Hayes
Notary Public



My Commission Expires 6/26/09

John William Gresham, License No. 9925, **does not accept** the proposed Consent Order in this matter.

By: _____
John William Gresham Date
License No. 9925

I, John William Groshean (name), the undersigned, am Pharmacy Manager (title) for the holder of permit #7685 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 #7685. I understand and agree that by entering into this Consent Order, I certify that I have read the foregoing Consent Order and 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.

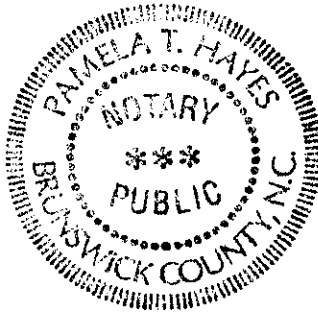
John William Groshean #129925, on behalf of permit #7685, **accepts** Board member Stan Haywood's proposal in this matter.

CONSENTED TO BY: John William Groshean 12-29-04
Name: John William Groshean Date
Title: Pharmacy Manager
Sea Shore Drugs

State of North Carolina
Brunswick County

I, Pamela T. Hayes, a Notary Public for the above-named County and State, do hereby certify that John William Groshean personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal
This the 29th day of December, 2004.
Pamela T Hayes
Notary Public
My Commission Expires 6/26/09



_____ on behalf of permit #7685, **does not accept** the proposed Consent Order in this matter.

By: _____
Name: _____ Date: _____
Title: _____