

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF)

ALMAND'S DRUG STORES)
Permit No. 2981)

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 April 14, 2008 and, after appropriate notice, was heard on that day at the office of the North Carolina Board of Pharmacy (hereinafter, "Board") by Board member Wallace E. Nelson. Both Michele Farrington (License No. 9524) ("Farrington"), Respondent's pharmacist-manager, and Jean Kitchin, Respondent's owner, were present at the conference. Respondent was represented by counsel, Douglas Brocker. Board Counsel Katherine A. Soles and members of the Board's investigative and legal staff were present at this conference, as was a related respondent.

FINDINGS OF FACT

1. Respondent is located at Westridge Village Shopping Center, 3621 Sunset Avenue, Rocky Mount, North Carolina, and holds Permit Number 2981.
2. From approximately October 2005 to April 2007, Technician Morgan Jones worked full time as a pharmacy technician for Respondent
3. While employed by Respondent, Technician Jones frequently placed orders for the pharmacy. When placing these orders, Technician Jones would order additional dosage units of controlled substances. On some occasions, Technician Jones ordered these additional controlled substances with the ordering gun that was used to order over-the-counter items for the

front of the store. Technician Jones would then intercept the additional medication when it was received by Respondent, conceal the medication bottles in her purse, and remove them from the pharmacy. On other occasions, she would order the controlled substances with the pharmacy orders and would divert them from the pharmacy.

4. On April 3, 2007, Technician Jones was arrested for selling 2,000 dosage units of Alprazolam 1mg. Jones admitted that she had diverted approximately 25,000 to 35,000 dosage units of Alprazolam 1mg from Respondent over the course of a one (1) year period.

5. On April 3, 2007, the Board's investigator conducted a preliminary audit of Respondent's controlled substances inventory. The audit revealed a 108,981 dosage unit shortage of Alprazolam 1mg and 309 dosage unit shortage of Xanax XR 1 mg. A complete controlled substances inventory that was conducted on April 20, 2007 revealed additional shortages of other controlled substances.

6. On April 5, 2007, Respondent submitted a Report of Theft of Loss of Controlled Substances (Form DEA 106) to the federal Drug Enforcement Administration reporting the loss of 108,981 dosage units of Alprazolam 1 mg due to employee pilferage.


7. The evidence supports a finding that Technician Jones diverted many more controlled substances, both in type and in amount, than the 25,000 to 35,000 dosage units of Alprazolam 1 mg that she admitted to diverting.

8. On April 23, 2007, Respondent submitted a Report of Theft of Loss of Controlled Substances (Form DEA 106) to the federal Drug Enforcement Administration reporting the loss of a number of controlled substances from the pharmacy due to employee pilferage.

9. Respondent admits that it failed to maintain an adequate system of record-keeping and control in order to prevent or detect the diversion or loss of medications, including controlled substances, and that it failed to adequately supervise its technicians.

10. Following the arrest of Technician Jones, Respondent put the following security measures in place:

- (a) A locked cabinet was installed in the pharmacy to store all controlled substances and only a pharmacist has access to the cabinet;
- (b) Two people (one of whom must be a pharmacist) must "check in" all controlled substances when they are received and indicate that they have done so by signing the invoice for the controlled substances;
- (c) Respondent's supplier, Mutual Wholesale Drug, will send Respondent a consolidated monthly report showing all of the controlled substances purchased by Respondent during that month;
- (d) Respondent installed an additional camera aimed directly at the controlled substances cabinet;
- (e) Respondent's pharmacists have sought education regarding street drug use and abuse;
- (f) Pharmacy Manager Farrington has completed a CE on Controlled Drug Law;
- (g) Ms. Kitchin has requested that the Area Health Education Center Pharmacy Coordinator consider conducting a CE on the drug culture of the region;
- (h) Respondent consulted with Pharmaceutical Records, Inc., a pharmacy consulting firm, in order to prevent future theft;

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- (i) Respondent will conduct random audits of controlled substances on a monthly basis; and
 - (j) Respondent requires drug screenings and criminal background checks for all new employees.

CONCLUSIONS OF LAW

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

1. Respondent violated N.C. Gen. Stat. §§ 90-85.38(b), 90-85.40(f), 90-104, 90-106, 90-108 and 106-134.1; and 21 N.C.A.C. 46 .1805.
2. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on its permit under N.C. Gen. Stat. § 90-85.38.

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

1. Permit Number 2981 is hereby SUSPENDED for a period of five (5) days. This suspension is hereby STAYED for a period of two (2) years, provided that Respondent complies with the following conditions:

- (a) Respondent shall provide documentation to the Board that it has submitted any necessary additional DEA 106 Forms to the Drug Enforcement Administration within thirty (30) days of the date of this Order;

- (b) Respondent shall continue to maintain the changes to its monitoring and record-keeping systems that it put in place following the arrest of Technician Jones;

- (c) Respondent shall be subject to an unannounced inspection by the Board staff to confirm that Respondent continues to maintain the monitoring and record-keeping systems discussed above;

- (d) Respondent shall be subject to an unannounced controlled substances audit by the Board staff;

(e) Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs;

(f) Respondent shall violate no rules and regulations of the Board; and

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

If Respondent fails to comply with any terms or conditions of this Order, the period of stay described above shall be lifted and Respondent may be subject to additional disciplinary action by the Board.

This the 17th day of June 2008.

NORTH CAROLINA BOARD OF PHARMACY

By: 

Jay W. Campbell, IV
Executive Director

Almand's Drug Stores, the holder of permit number 2981, has full knowledge that it has the right to a hearing, at which it would have the right to be represented at its expense by counsel, in this matter. The undersigned freely, knowingly and voluntarily waives such right by entering into this Consent Order.

The undersigned understands and agrees that by entering into this Consent Order, he or she certifies that he has read the foregoing Consent Order and that Almand's Drug Stores voluntarily consents to the terms and conditions set forth therein and relinquishes any right to judicial review of Board actions which may be taken concerning this matter.

The undersigned further understands that should Almand's Drug Stores 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.

The undersigned understands that Almand's Drug Stores has the right to have counsel of its choice review and advise it with respect to its rights and this Consent Order, and represents that it enters this Consent Order after consultation with its counsel or after knowingly and voluntarily choosing not to consult with counsel.

The undersigned certifies that its agent executing this Consent Order is duly authorized to execute the Consent Order on behalf of Almand's Drug Stores and to bind the permit holder.

ACCEPTED AND CONSENTED TO BY:

ALMAND'S DRUG STORES (Permit No. 2981)

Almand's Drug Stores Date 5-7-08

By: Jean A. Kitchen

Title: Pres / CEO

STATE OF North Carolina

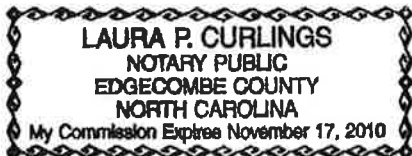
Nash COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that the following person personally appeared before me this day and acknowledged the due execution of the foregoing document: Jean Kitchen

Date: 5-7-2008

Laura P. Curlings
Notary Public
Edgecombe Co., NC

My commission expires: Nov 17, 2010



REJECTED BY:

ALMAND'S DRUG STORES (Permit No. 2981)

_____ Date _____

By: _____

Title: _____