

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

CVS Pharmacy)
(Permit No. 8524)) CONSENT ORDER
)
)

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46 .2008 on May 31, 2006. Board member Wallace Nelson presided. Also present at the conference were the following: Holly Price, Investigator; Steve Hudson, Director of Investigations and Inspections; Anna Baird Choi, Board Counsel; Donna Adams, RPh.; Tsedal Kidane, RPh.; Karen Peacock, Registered Technician; Mike Cauthen, RPh., Pharmacy Supervisor for CVS Pharmacy, permit no. 8524 ("Respondent Pharmacy"); and George Hearn, counsel for Respondent Pharmacy. 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 Pharmacy is a pharmacy permitted by the Board and is the holder of permit number 8524. At all relevant times, Respondent Pharmacy operated as a CVS Pharmacy located at 16035 Johnson Road, Charlotte, North Carolina.
2. On December 7, 2005, the Board received a complaint from a patient's husband who alleged that his wife (the patient) had received the wrong medication from Respondent Pharmacy.
3. The investigation produced evidence to show that on or about December 5, 2005, the patient's spouse took a new prescription for Xanax, written for his wife, to Respondent

Pharmacy. When pharmacy staff rang up the medication and told the patient's spouse that the price of the medication was \$95.00, he questioned the cost since his wife had taken Xanax previously and the cost was usually \$15.00 or \$20.00. Pharmacy staff informed him that the medication dispensed to his wife was Flomax. The Patient's spouse informed pharmacy staff that his wife had not been prescribed Flomax.

4. Upon review by pharmacy staff of the medication dispensed, the patient's spouse was told that the error occurred because the prescription was read and entered into the computer as "Flomax" instead of "Xanax."
5. Pharmacy staff corrected the error prior to the patient's spouse leaving the store.
6. Registered Technician Danielle Holland were involved with the misfilling of the prescription.
7. On February 14, 2006 and during the course of her investigation, Investigator Price interviewed Technician Holland who was employed full-time at a CVS Pharmacy located at 13845 Conlan Circle, Charlotte, North Carolina (permit no. 8837). Subsequent to this interview, Investigator Price confirmed that Technician Holland was not registered with the Board though she had been employed with CVS since September of 2005.

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

CONCLUSIONS OF LAW

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

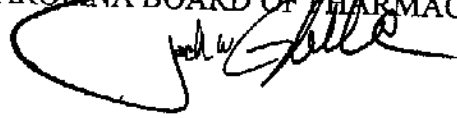
2. Respondent Pharmacy violated the following statutes and rules when it dispensed and delivered Flomax on a prescription order for Xanax and when it employed an unregistered pharmacy technician:
 - a. G.S. 90-85.38(a)(6), (7) and (9);
 - b. G.S. 90-85.40;
 - c. G.S. 90-85.15A;
 - d. G.S. 106-134.1;
 - e. 21 N.C.A.C. 46 .1804
 - f. 21 N.C.A.C. 46 .1805; and
 - g. 21 U.S.C. 353.

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

1. Respondent Pharmacy, permit number 8524, is hereby warned.
2. 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.
3. Respondent Pharmacy shall violate no laws governing the practice of pharmacy or the distribution of drugs.
4. Respondent Pharmacy shall violate no rules and regulations of the Board.
5. 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 26 day of September, 2006.

NORTH CAROLINA BOARD OF PHARMACY



By:

Jack W. Campbell, IV
Executive Director

I, Susan DeMonico, (name), the undersigned, am President (title) for the holder of permit no. 8524 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 no. 8524. 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.

Susan DeMonico, President on behalf of permit no. 8524, accepts Board member Wallace Nelson's proposal in this matter.

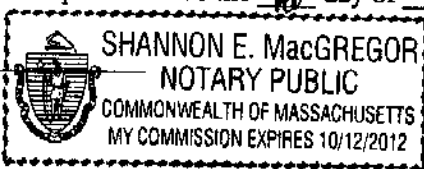
CONSENTED TO BY: Susan DeMonico Name: Susan DeMonico Date: 8/14/06
Title: President

State of MA.
Norfolk County

I, Shannon MacGregor, the undersigned Notary Public of the County and State aforesaid, certify that Susan DeMonico personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purposes therein expressed. I have received satisfactory evidence of the principal's identity in the form of Licence.

Witness my hand and Notarial stamp or seal this the 14 day of Aug., 2006.

Notary Public



Typed or Printed Notary Name

My Commission Expires _____

_____ on behalf of permit no. 8524, does not accept the proposed Consent Order in this matter.

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