

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:)

CVS/PHARMACY)
(Permit No. 10862))
)
)
)

**CONSENT ORDER OF
DISCIPLINE**

THIS MATTER came on to be considered at a prehearing conference (hereinafter, "Conference") before a member of the North Carolina Board of Pharmacy (hereinafter, "Board") pursuant to 21 N.C.A.C. 46 .2008. This Conference was scheduled for February 20, 2012, and, after appropriate notice, was heard on that day by Board member Dr. J. Parker Chesson, Jr. at the offices the Board. Respondent CVS/pharmacy (Permit No. 10862) (hereinafter, "Respondent" or the "Pharmacy") was present and was represented by Counsel George G. Hearn. Counsel Clinton R. Pinyan represented the Board. Members of the Board's investigative staff and a related respondent were also present at the Conference.

The Pharmacy has agreed to waive a formal hearing in the above-referenced matter. Both parties stipulate and agree to the findings of fact and conclusions of law recited herein and to the order of discipline imposed. By its consent, the Pharmacy also stipulates that it waives its right to appeal this Consent Order or challenge in any way the sufficiency of the findings of this Order. Based upon the consent of the parties, the Board hereby enters the following:

FINDINGS OF FACT

1. The North Carolina Board of Pharmacy is a body duly organized under the laws of North Carolina and is the proper body for this proceeding under the authority granted it in Chapter 90 of the General Statutes of North Carolina, and the rules and regulations promulgated thereunder.

2. Respondent CVS/pharmacy is the holder of Pharmacy Permit No. 10862, which Pharmacy is located at 1924 Statesville Boulevard, Salisbury, North Carolina. The Pharmacy and its employees were subject to the rules and regulations of the North Carolina Board of Pharmacy and the laws of the State of North Carolina.

3. On January 1, 2011, the Board issued Pharmacy's 2011 permit to pharmacist-manager James Andrew Caudill. On February 19, 2011, Caudill left the position of pharmacist-manager at the Pharmacy. From February 19, 2011 to April 4, 2011, the Pharmacy operated without a pharmacist-manager.

4. Pharmacist Caudill had informed Respondent that February 25, 2011 would be his last day as pharmacist-manager, but he unexpectedly left earlier, on February 19, 2011. Respondent's pharmacy supervisor, Maura Maflin, selected a replacement pharmacist-manager on March 1, 2011. Through inadvertence, Ms. Maflin forwarded to an incorrect location some of the employment paperwork required by Respondent. This inadvertence delayed by approximately ten days the final approval of the hiring of the employee. This delay contributed to the pharmacist-manager not submitting her certification as successor pharmacist-manager to the Board until April 4, 2011.

5. In early March 2011, Respondent's Loss Prevention Manager, B.K. Sanders, and Ms. Maflin installed a covert camera over the pharmacy bay where hydrocodone/APAP (a Schedule III controlled substance) was stocked. When the surveillance camera results were reviewed later in March, it disclosed twelve (12) separate occasions that technician Sandra H. Sessions (Registration No. 4812) diverted hydrocodone/APAP during the time that the pharmacy was without a pharmacist-manager.

6. At the conference, representatives from the Pharmacy acknowledged awareness of the Board's requirement that a pharmacist-manager must be replaced within thirty (30) days of the departure of the prior pharmacist-manager, and acknowledged that one of the purposes of such a requirement is to prevent diversion by providing stable management of a pharmacy.

CONCLUSIONS OF LAW

1. All parties are properly before the Board, and the Board has jurisdiction over Respondent and the subject matter of this proceeding.

2. Respondent's conduct, as set out in the findings of fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 90-85.38 because Respondent's acts were in violation of N.C. Gen. Stat. §§ 90-85.21(a), 90-85.38(b) and 90-85.40(b) and (f).

CONCLUSIONS REGARDING DISCIPLINE

Based upon the foregoing Findings of Fact and Conclusions of Law, and with the consent of Respondent, the Board enters the following:

CONSENT ORDER OF DISCIPLINE

Respondent CVS/pharmacy (Permit No. 10862) is hereby REPRIMANDED.

This the 21st day of March, 2012.

NORTH CAROLINA BOARD OF PHARMACY

By:



Jack W. Campbell, IV
Executive Director

CVS/pharmacy, the holder of permit number 10862, has full knowledge that it has the right to a formal 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, it certifies that it has read the foregoing Consent Order and that it 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 it 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 it 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 accept the Consent Order on behalf of the permit holder and to bind the permit holder.

ACCEPTED AND CONSENTED TO BY:

CVS/PHARMACY (Permit No. 10862)

[Signature] Date 3/13/2012

By: [Signature] Richard B. Mazzone
Title: Dir. Regulatory Compliance

NORTH CAROLINA

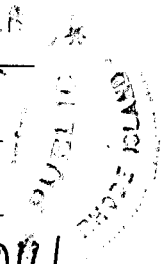
_____ COUNTY

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

Date: 3-13-2012

Elizabeth Puller
Notary Public
50085

My commission expires: 7/10/2014



REJECTED BY:

_____ Date _____
CVS/PHARMACY (Permit No. 10862)