

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF)
)
OUT-OF-STATE PERMIT) **FINAL CONSENT ORDER**
APPLICATION OF COMPOUND CARE)
PLUS, L.L.C.)
_____)

THIS MATTER came on to be heard before the North Carolina Board of Pharmacy (the “Board”) at a prehearing conference on September 19, 2011, on the consent of the parties. 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 permit applicant, Compound Care Plus, L.L.C. (“Compound Care”) waives its right to appeal this Final Consent Order. Compound Care also stipulates that the findings of fact and conclusions of law are legally sufficient to support this Final Consent Order and agrees not to challenge the legal adequacy of the findings and conclusions in any potential future proceeding regarding this Final Consent Order. With the consent of the parties, the Board hereby enters the following:

FINDINGS OF FACT

1. Compound Care is a limited liability company organized on October 13, 2003, and existing under the laws of the State of Alabama. Compound Care does business under the name Compound Care Plus Pharmacy. Compound Care holds a pharmacy permit in the State of Alabama and holds out-of-state pharmacy permits in a number of other states. Compound Care provides a variety of compounded drugs.

2. Compound Care makes the following representations: Beginning in January 2008, Compound Care began shipping prescription drugs into the State of North

Carolina without an out-of-state pharmacy permit having been issued under North Carolina General Statutes § 90-85.21A. Between January 2008 and December 2008, Compound Care made thirty (30) shipments of prescription drugs into the State of North Carolina in violation of North Carolina General Statutes §§ 90-85.21A and 90-85.38(b). Each of these prescriptions (except one) was for a ketoprofen compounded topical anti-inflammatory drug.

3. In August 2008, Compound Care became aware that an out-of-state permit was required to ship into North Carolina, and it promptly submitted an application. Compound Care was informed that it could not make further shipments into the State of North Carolina until a permit was granted, and Compound Care represents that it stopped making shipments into North Carolina in December 2008. The 2008 application was not acted on at that time.

4. In June 2011, all of the membership interests in Compound Care were sold to Automated HealthCare Solutions, LLC. Even if Compound Care had previously held an out-of-state pharmacy permit, this purchase would have required Compound Care to apply for a new North Carolina out-of-state pharmacy permit pursuant to 21 NCAC 46 .1603.

5. In July 2011, Compound Care submitted a renewed application for an out-of-state permit. Compound Care represented that it had made no shipments into the State of North Carolina since December 2008.

6. The Board accepts that Compound Care has made only thirty (30) shipments into the State of North Carolina, and that it did so between January 2008 and December 2008. The Board further accepts that Compound Care has made no shipments since it was purchased by Automated HealthCare Solutions, LLC.

7. On both its 2008 and 2011 applications, Compound Care truthfully disclosed that it had previously shipped prescription drugs into the State of North Carolina without an out-of-state pharmacy permit.

8. As of the date of this order, Compound Care does not operate an Internet Pharmacy as defined in 21 NCAC 46 .1317(17).

9. With respect to the prior prescriptions shipped into North Carolina, the Board is unaware of instances where Compound Care and its pharmacists actually knew or reasonably should have known that the order was issued without a physical examination of the patient and in the absence of a prior prescriber-patient relationship in violation of 21 NCAC 46 .1801(b) or otherwise was not a valid prescription, and Compound Care represents that there were no such instances.

10. Compound Care represents and the Board accepts that Compound Care has never had any disciplinary action or investigation by any federal or state pharmacy regulatory authority involving the pharmacy or any of the pharmacists associated with Compound Care.

11. Compound Care represents and the Board accepts that Compound Care has never referred a North Carolina patient to any health care provider.

CONCLUSIONS OF LAW

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

1. Compound Care violated North Carolina General Statutes §§ 90-85.21A and 90-85.38(b) by shipping prescription drugs into the State of North Carolina without an out-of-state pharmacy permit between January 2008 and December 2008.

2. Respondent admits that the conduct in this matter violated North Carolina law and constitutes sufficient grounds for disciplinary action in connection with its permit application under North Carolina General Statutes § 90-85.38.

3. The Board has considered the following as substantial mitigating factors in this case:

a. Compound Care's violations were of a relatively limited number, and Compound Care ceased shipment for a period of nearly three years after it was informed that it could not ship without an out-of-state permit.

b. The current owners of Compound Care were not involved in any shipments of prescription drugs into the State of North Carolina without an out-of-state pharmacy permit.

c. The Board has no information that Compound Care and its pharmacists have ever shipped prescription drugs into the State of North Carolina in circumstances where they actually knew or reasonably should have known that the order was issued without a physical examination of the patient and in the absence of a prior prescriber-patient relationship in violation of 21 NCAC 46 .1801(b) or otherwise was not a valid prescription.

d. Compound Care is not an Internet Pharmacy and otherwise does not have a business model that is likely to encourage or facilitate the shipment of drugs based on invalid prescriptions.

Based upon the foregoing, and with the consent of the parties, IT IS THEREFORE ORDERED that the permit application of Compound Care Plus, L.L.C. is hereby GRANTED.

However, the permit of Compound Care Plus, L.L.C. is hereby INDEFINITELY SUSPENDED, but that suspension is stayed for a period of ten (10) years, upon the following conditions:

1. Respondent's permit is conditioned upon the accuracy of the information in its permit application, the information that it previously provided to the Board in connection with the review of the permit application, and the stipulated Findings of Fact above;
2. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs, whether federal, North Carolina or the laws of any other state;
3. Respondent shall violate no rules and regulations of the Board;
4. Respondent shall cooperate with the Board, its attorneys, investigators and other representatives in any investigation and compliance with the provisions of this Consent Order.

This the 20th day of September, 2011.

NORTH CAROLINA BOARD OF PHARMACY

By: _____

Jack W. Campbell, IV
Executive Director

Compound Care Plus, L.L.C. 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 Final Consent Order. The undersigned understands and agrees that by entering into this Final Consent Order, it certifies that it has read the foregoing Final 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 Final Consent Order, the Board may take additional disciplinary action. The undersigned understands and agrees that this Final 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 Final Consent Order, and represents that it enters this Final 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 Final Consent Order is duly authorized to accept the Final Consent Order on behalf of Compound Care Plus, L.L.C. and to bind the permit holder.

ACCEPTED AND CONSENTED TO BY:

COMPOUND CARE PLUS, L.L.C.

Ashley Hammond Date 9-19-11
By: Ashley Hammond
Title: President

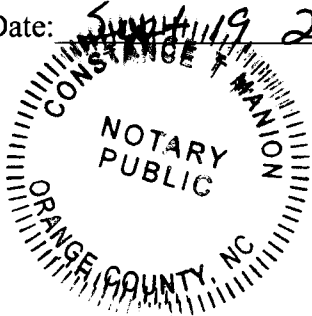
STATE OF North Carolina

Durham COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that personally appeared before me this day, and each acknowledged the due execution of the foregoing document: ASHLEY HAMMOND

[PRINT NAME OF INDIVIDUAL SIGNING]

Date: September 19, 2011



Constance T. Manion
Notary Public
Constance T. Manion

My commission expires: 9-3-2012