

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

DUKE UNIVERSITY HEALTH SYSTEM
(Permit No. 197)

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**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 January 19, 2009 and, after appropriate notice, was heard on that day by Board member Wallace Nelson at the offices the Board. Respondent Duke University Health System (Permit No. 197) (hereinafter, "the Pharmacy") was present and was represented by counsel Mark Anderson. Counsel Sarah Phillips represented the Board. Members of the Board's investigative staff and other Board counsel 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. The Pharmacy is, and was at all relevant times referred to herein, the holder of Pharmacy Permit No. 197, located at Erwin Road, Durham, 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 February 13, 2007, the Pharmacy dispensed an incorrect dosage of sodium chloride, in excess of the amount ordered and in excess of the maximum therapeutic dosage, to a premature patient.

4. On November 27, 2007, the Pharmacy improperly dispensed 4 cc of potassium phosphate to a post-surgical patient where the prescription called for 2 grams of magnesium sulfate. The potassium phosphate was incompatible with calcium gluconate that was also contained in the patient's IV bag.

5. On July 30, 2008, the Pharmacy improperly dispensed a potassium chloride infusion to a premature patient where the prescription called for a sodium chloride 3% infusion.

6. The Board finds that discipline is warranted due to the serious nature of the conduct described and the resulting patient harm.

7. The Board finds that, after the fact, the Pharmacy took significant steps to identify the root causes of the errors and to take action to improve and correct its practices and procedures in an effort to minimize the risk of future patient harm. The Pharmacy's action after these errors constitutes a substantial mitigating factor in reaching the discipline imposed in this case.

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. The Pharmacy's conduct, as set out in the findings of fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 90-85.38(b) because the Pharmacy's agents' acts were in violation of N.C. Gen. Stat. § 90-85.38(a)6), (7) and (9) and 106-122; and 21 N.C.A.C. 46 .1411(b), 46 .1414(a) and (d) and 46 .1804(a).

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:

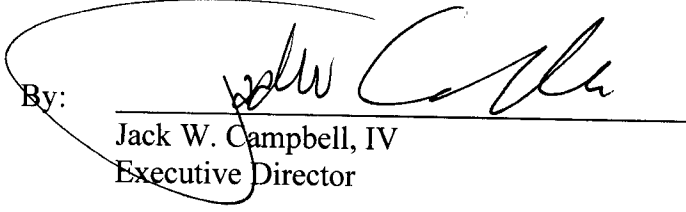
CONSENT ORDER OF DISCIPLINE

Respondent Duke University Health System, Permit No. 197, is hereby formally REPRIMANDED by the Board for failure to comply with the laws governing the practice of pharmacy and the distribution of drugs, failure to comply with the North Carolina Pharmacy Practice Act and the rules adopted by the Board, and negligence in the practice of pharmacy in violation of N.C. Gen. Stat. § 90-85.38(b).

This the 17th day of February, 2009.

NORTH CAROLINA BOARD OF PHARMACY

By: _____


Jack W. Campbell, IV
Executive Director

Duke University Health System, the holder of permit number 197, 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 Final Consent Order is duly authorized to accept the Final Consent Order on behalf of the permit holder and to bind the permit holder.

ACCEPTED AND CONSENTED TO BY:

DUKE UNIVERSITY HEALTH SYSTEM (Permit No. 197)

Date 2/11/09

By: Lynn Koonce Whitt

Title: Interim Director of Pharmacy

NORTH CAROLINA

Davidson 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: Lynn Koonce Whitt

Date: ~~3-4-2012~~ 2-11-09

Lee Ann Jones
Notary Public
Lee Ann Jones

My commission expires: 3-4-2012

REJECTED BY:

DUKE UNIVERSITY HEALTH SYSTEM (Permit No. 197)

_____ Date _____

By: _____

Title: _____