

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Jenny Minor)	
(License No. 13930))	
)	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 November 11, 2002 and was heard on that day at the Board office before Board member, Betty Dennis. Also present at the conference were the following: David Work, Executive Director; Josh Kohler, Board Investigator; Steve Hudson, Director of Investigations and Inspections; Amy Sykes, Board Investigator; Anna Baird Choi, Counsel for the Board; and Jenny Minor (Respondent Minor). 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. Jenny Minor is licensed to practice pharmacy by the Board and is the holder of license number 13930.
2. On May 24, 2002, the Board received a complaint (#172.02) from a patient informing the Board that on March 30, 2002, she presented a prescription at the Winn Dixie Pharmacy, 1393 Kildaire Farm Road, Cary, Wake County, North Carolina. The prescription was written for Atenolol 50mgs, 100 dosage units, with directions of "One tablet twice daily;"

Respondent dispensed Atenolol 100mgs, 100 dosage units, with directions of "One tablet twice daily."

3. The patient informed the Board that when she returned to the pharmacy on May 13, 2002 to obtain a refill, the medication was refilled and dispensed by RPh. Erica Boutaud as Atenolol 100 mg. Ms. Boutaud dispensed pursuant to the instructions on the computer screen in the pharmacy.
4. After obtaining the refill on May 13, 2002, the patient noticed that the dosage was incorrect and returned to the pharmacy. At that time, the patient realized that the prescription dispensed on March 30, 2002 and refilled on May 13, 2002 was Atenolol 100mg and not Atenolol 50 mg.
5. Between March 30, 2002 and May 13, 2002, the patient incurred side effects such as heart palpitations, shortness of breath (especially when lying down), feeling cold, fatigue, cough associated with the palpitations, elevated blood pressure, and dizziness. As a result of the dizziness, the patient fell at home and broke a bone in her left foot. The patient's physician conducted several tests, including an electrocardiogram, all of which returned normal. No evidence was obtained to show any long-term harm.
6. Respondent was unaware of the dispensing error until she was contacted by Josh Kohler, Board Investigator, on June 18, 2002.
7. Upon reviewing pharmacy records, Respondent was uncertain as to whether the error was due to a technician error or a misread of the prescription; however, Respondent acknowledged and apologized for the error.
8. Respondent now takes additional steps in preventing a similar dispensing error, including implementing her own checking system for new prescriptions and refills.

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

CONCLUSIONS OF LAW

1. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on her license under G.S. 90-85.38.
2. Respondent violated the following statutes and rules when she failed to properly and accurately dispense medication: G.S. 90-85.38(a)(6), (7), and (9) and 21 U.S.C. 331.

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

1. License number 13920 is suspended for seven (7) days.
2. This suspension is stayed for a period of three (3) years upon the following conditions:
 - a. Respondent shall advise the Board promptly in writing of any change of address or change in practice status;
 - b. Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of her practice and compliance with the provisions of this Consent Order;
 - c. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs;
 - d. Respondent shall violate no rules and regulations of the Board;
 - e. If Respondent fails to comply with any terms or conditions of this Consent Order, Respondent may be subject to additional disciplinary action by the Board.

3. This suspension and stay of suspension described in paragraphs one and two commences upon the date this Consent Order is approved by the Board.

This the 21st day of January 2003.

NORTH CAROLINA BOARD OF PHARMACY

By:

David R. Work
David R. Work
Executive Director

Jenny Minor, the holder of License #13930, has full knowledge that she has the right to a hearing and to be represented by counsel in this matter. She freely, knowingly, and voluntarily waives such right by entering into this Consent Order on behalf of License #13930. The undersigned understands and agrees that by entering into this Consent Order, she certifies that she has read the foregoing Consent Order and that she 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. The undersigned further understands that should she 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.

Jenny Minor, License #13930, accepts Board member Betty Dennis's proposal in this matter.

CONSENTED TO BY: Jenny Minor 11-Dec-02
Jenny Minor Date
License No. 13930

State of North Carolina
Wake County

I, Ella M. Bailey, a Notary Public for the above-named County and State, do hereby certify that Jenny Minor personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 11th day of December, 2002.

Ella M. Bailey
Notary Public

My Commission Expires 5.25.2003

Jenny Minor, License No. 13930, does not accept the proposed Consent Order in this matter.

By: Jenny Minor 12-Dec-02 12-Dec-02
Jenny Minor Date
License No. 13930