

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Charles Brownlow Pace)
 (License No. 5640))
 Carteret Family Practice Pharmacy)
 (Limited Service Permit No. 7616))
)

FINAL DECISION

THIS MATTER came on for hearing upon an Amended Notice of Hearing issued February 24, 2003 to determine whether or not Charles Brownlow Pace (Respondent Pace) and Carteret Family Practice Pharmacy (Respondent Pharmacy) violated North Carolina General Statute §90-85.38(a)(6), (7) and (8), which provides that the Board may issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew a license or permit to practice pharmacy, or require a licensee or permit holder to complete remedial education if the licensee or permit holder has:

- “(6) Failed to comply with the laws governing the practice of pharmacy and the distribution of drugs;
- (7) Failed to comply with any provision of this Article or rules adopted by the Board;
- (8) Engaged in, or aided and abetted an individual to engage in, the practice of pharmacy without a license.”

The Notice set forth specific factual allegations and scheduled a hearing for March 18, 2003. The hearing was conducted at the Board office before Board members Haywood, Crocker, and Chater. Board members Dennis, Nelson, and Rogers took no part in the hearing or decision in this matter. At the commencement of the hearing, Respondents consented to proceed with the hearing with less than a quorum of Board members present; Respondents also stipulated to paragraph 1 of the Amended Notice of

Hearing. At the hearing, the Board and Respondents presented evidence in the form of testimony and exhibits. Based upon the record in this proceeding and the testimony and exhibits presented at the hearing, the Board makes the following:

FINDINGS OF FACT

1. Pace (hereinafter "Respondent Pace") is licensed to practice pharmacy by the Board and is the holder of license number 5640. At all relevant times, Respondent Carteret Family Practice Pharmacy held limited service permit no. 7616. At all relevant times, Respondent Medical Center Pharmacy held limited service permit no. 7740.
2. On June 18, 2002, the Board received a complaint from Dr. Mary Katherine Lawrence of Down East Medical Associates informing the Board that a patient stole a prescription pad on June 12, 2002 and wrote a prescription for Xanax 1mg, 60 dosage units. The prescription was presented and filled at Respondent Carteret Family Practice Pharmacy, Morehead City, Carteret County, North Carolina on June 13, 2002 without supervision. Respondent Pace is currently the pharmacist manager for the limited service permit at this pharmacy.
3. On June 21, 2002, the Board received a complaint from Mary Williford, N.C. Department of Health and Human Services, Division of Medical Assistance, informing the Board that she received an email from Respondent Pace on June 19, 2002 stating that neither he nor any other pharmacist was working at Respondent Medical Center Pharmacy in Hampstead, Pender County, North Carolina.

Respondent Pace was previously the pharmacist manager for the limited service permit at this pharmacy.

4. Board Investigator Josh Kohler discovered that no physician held a dispensing permit at Respondent Carteret Family Practice Pharmacy on June 13, 2002. Dr. Donald Reece, who had previously held a physician dispensing permit, had not renewed the permit since 1999.
5. Investigator Kohler also discovered that Respondent Pace was only present in Respondent Carteret Family Practice Pharmacy on Mondays and on all other days during which Respondent Pace was not present, the pharmacy technician was dispensing medication without supervision. On June 13, 2002, no pharmacist was on duty at Respondent Carteret Family Practice Pharmacy.
6. Investigator Kohler discovered that Respondent Carteret Family Practice Pharmacy lacked counseling and accurate transaction history records and that no counseling policy or procedure existed at Respondent Carteret Family Practice Pharmacy.
7. Investigator Kohler discovered that no pharmacist was on duty at Respondent Medical Center Pharmacy after Respondent Pace's departure in mid-May of 2002 through the date of the complaint.
8. Investigator Kohler also discovered that Dr. Shyam Garg opened Respondent Medical Center Pharmacy in August of 2001, at which time, Dr. Garg hired Respondent Pace to be responsible for obtaining all necessary licenses, permits, etc. Dr. Garg was under the impression that Respondent Pace had applied for and

had received a physician dispensing permit that would allow Dr. Garg to check prescriptions on the days when Respondent Pace was not present in the pharmacy.

9. Investigator Kohler discovered that Dr. Shyam Garg has never held a physician dispensing permit since the opening of Respondent Medical Center Pharmacy.
10. Investigator Kohler also discovered that Respondent Medical Center Pharmacy failed to keep any type of consultation log and had no policy or procedures for the documentation of dispensing errors. Additionally, Respondent Medical Center Pharmacy did not have accurate transaction history reports.

CONCLUSION OF LAW

1. The actions of Respondents Pace and Carteret Family Practice Pharmacy as described above constitute violations of the following statutes and rules:
 - a. 21 NCAC 46 .2302, .2303, and .2304(3);
 - b. 21 NCAC 46 .2504(g); and
 - c. G.S. 90-85.38(a)(6), (7) and (8).
2. The actions of Respondent Pace at Medical Center Pharmacy as described above constitute a violation of the following statutes and rules:
 - a. 21 NCAC 46 .2302, .2303, and .2304(3);
 - b. 21 NCAC 46 .2504(g); and
 - a. G.S. 90-85.38(a)(6), (7) and (8).

IT IS, THEREFORE, ORDERED, that:

1. Respondent Charles Pace's license, number 5640, shall be suspended for 30 days.

The 30-day suspension of his license shall be stayed for three (3) years upon the following conditions:

- a. Respondent Pace's license shall be actively suspended for ten (10) consecutive business days which shall commence within thirty (30) days of receipt of this Order;
- b. Within three (3) months of Respondent Pace's receipt of this Order, he shall take and pass the Board's Jurisprudence Examination;
- c. Respondent Pace shall advise the Board promptly in writing of any change of address or change in practice status;
- d. Respondent Pace shall violate no laws governing the practice of pharmacy or the distribution of drugs;
- e. Respondent Pace shall violate no rules and regulations of the Board;
- f. If Respondent Pace fails to comply with any terms or conditions of this Order, the three-year stay described above shall be lifted and Respondent Pace shall be subject to further disciplinary action by the Board.

2. Limited service permit number 7616 for Respondent Pharmacy is suspended indefinitely. The suspension is stayed for five (5) years upon the following conditions:

- a. The Pharmacist-Manager shall submit to the Board within ninety (90) days of receipt of this order a policies and procedures manual regarding the policies and procedures implemented at Respondent Pharmacy;

- b. Respondent Pharmacy shall violate no laws governing the practice of pharmacy or the distribution of drugs;
- c. Respondent Pharmacy shall violate no rules and regulations of the Board;
- d. If Respondent Pharmacy fails to comply with any terms or conditions of this Order, the stay of the above-referenced suspension shall be lifted immediately, and Respondent Pharmacy shall be subject to further disciplinary action by the Board.

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This the 13 day of May, 20 03.

NORTH CAROLINA BOARD OF PHARMACY

By: David R. Work
David R. Work
Executive Director