

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF)
)
ARES L. ARTEMES)
License No. 4190,)
)
and)
)
THE PHARMACEUTICAL CENTER #2)
Permit No. 3013)
)

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 February 19, 2007, and, after appropriate notice, was heard on that day at the office of the North Carolina Board of Pharmacy (hereinafter "Board") by Board member Parker Chesson. Mr. Artemes, Board counsel Alexander Elkan and Clinton R. Pinyan, and members of the Board's investigation staff were present at the conference. Based upon the record in this proceeding and the statements and materials presented at the conference, the Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Respondent Ares Artemes is licensed by the Board to practice pharmacy and is the holder of license number 4190. Respondent The Pharmaceutical Center # 2, 3535 Randolph Rd., Charlotte, North Carolina 28211 (the "Pharmacy"), is the holder of permit number 3013. At all relevant times, Respondent Artemes was the owner of the Pharmacy, served as its Pharmacist-Manager, and was employed as a pharmacist at the Pharmacy.

2. On or about February 24, 2004, Respondents Artemes and the Pharmacy dispensed Zerit suspension to a pediatric HIV patient. Respondent Artemes compounded the

Zerit suspension using an improper suspension agent. A pharmacy technician informed Respondent Artemes that the drug had been improperly compounded, but Respondent Artemes initially refused to re-compound a proper suspension of the drug to be dispensed to the patient as a replacement, despite knowing that it had not been properly compounded. Respondent Artemes informed the patient of the improper compounding and redispensed the drug only after the Board had been informed of the circumstances and instructed Respondent Artemes to do so.

3. On a number of occasions between January 2003 and March 2006, Respondents Artemes and the Pharmacy dispensed drugs that were not authorized by prescription, as follows:

- a. Tenuate (60 pills, 75mg each) dispensed prior to authorized refill date on 4/07/05, 5/19/05, 7/05/05, 8/18/05, 10/07/05, 11/22/05, 1/12/06;
- b. Amoxicillin dispensed without authorization on eight occasions from 02/27/02 through 01/18/05; and
- c. Avandamet (90 pills, 500 mg each) dispensed without authorization on 12/01/03, 02/19/04, 06/26/04, 01/27/05.

4. Inventories of Schedule II controlled substance drugs were not performed between January 2003 and May, 2006 – greater than a biennial period.

5. On or about May 2006, the document and record keeping system of the Pharmacy did not maintain accurate records of the prescriptions filled, or the dispensing or compounding of drugs. Respondent Artemes admitted during the conference that he often did not write down call-in prescriptions, but nevertheless dispensed based on call-in prescriptions.

6. During May 2006, Respondent Artemes allowed Mr. Fred Charles, who is not a registered pharmacist or registered pharmacy technician, to compound medications – including controlled substances – at the Pharmacy without direct supervision.

7. During April and May 2006, Respondent Artemes did not verify each compounded medication, including Schedule II controlled substances that had been compounded by Mr. Charles, and did not create or maintain sufficient records of medications compounded by failing to initial the compounding log to verify the compounding of such drugs.

8. In May 2006, at the Pharmacy:

- a. a compounding log was not maintained showing the name or initials of the person who compounded the drug and the pharmacist who checked the compounded drug;
- b. a recordkeeping system was not maintained from which the date of purchase, supplier, manufacturer, and lot number or other identifier of each ingredient could be determined for each compounded drug;
- c. out-of-date medication was co-mingled with regular stock in compounding room;
- d. excess compounded drug product was not labeled, and was not stored under conditions to preserve its strength, quality and purity;
- e. Schedule II medications were not stored in a safe and secure manner.

9. Respondent Artemes was cooperative during the investigations and the conference with respect to the matters set forth herein, and voluntarily answered all questions posed of him by Board investigators and counsel. This cooperation, and Respondent Artemes' representation to the Board during the conference that he intends to sell the Pharmacy in March 2007, has factored into the terms of this consent order.

CONCLUSIONS OF LAW

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

1. Respondents Artemes and the Pharmacy violated statutes and rules governing the practice of pharmacy when they: dispensed prescriptions without authorization; dispensed an improperly compounded medication knowing it had not been properly compounded; did not immediately re-dispense the improperly compounded medication; employed an individual who was neither a registered pharmacist nor a registered technician to compound medications; did not supervise the compounding of medications; failed to verify compounded medications; failed to secure Schedule II substances; failed to keep adequate records of the compounding and dispensing of medications; maintained out-of-date pharmaceuticals in the normal stock; did not properly inventory Schedule II substances; and negligently maintained the Pharmacy facility and inventory and record systems. Respondents violated the following statutes and rules:

- a. N.C. Gen. Stat. §90-85.15A(b);
- b. N.C. Gen. Stat. § 90-85.38(a)(6), (7), (8), and (9);
- c. N.C. Gen. Stat. § 90-85.40(a), (b), (c), and (f);
- d. N.C. Gen. Stat. § 90-108;
- e. 21 N.C.A.C. 46.1802;
- f. 21 N.C.A.C. 46.1804;
- g. 21 N.C.A.C. 46.1805;
- h. 21 N.C.A.C. 46.1810;
- i. 21 N.C.A.C. 46.2302;
- j. 21 N.C.A.C. 46.2303;
- k. 21 N.C.A.C. 46.2304;
- l. 21 N.C.A.C. 46.2305;
- m. 21 N.C.A.C. 46.2502;

n. 21 N.C.A.C. 46.2504; and

o. 21 U.S.C. § 842.

2. Respondents Artemes and Pharmacy admit that their conduct in this matter constitutes sufficient grounds for disciplinary action on Respondent Artemes's license number 4190, and action on Respondent Pharmacy's permit number 3013, pursuant to N.C. Gen. Stat. §§ 90-85.38 (a) and (b).

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

1. Respondent Pharmacy, permit number 3013, shall be subject to unannounced inspections by Board investigators at any time.

2. Respondent Artemes's license number 4190 shall be suspended for two (2) months and two (2) weeks, which suspension shall be served as follows:

a. Respondent Artemes's license to practice pharmacy shall be actively suspended for a period of two consecutive (2) weeks, which active suspension shall commence at a time to be selected by the Respondent, but in any event, the complete two (2) week suspension shall be served and completed by Respondent within ninety (90) days of the date of acceptance of this Consent Order by the Board of Pharmacy. The Respondent shall notify the Executive Director of the Board, in writing, at least ten (10) days prior to serving such active suspension of his intention to do so, and shall notify the Executive Director of the Board, in writing, within ten (10) days after completion of service of such active suspension. Respondent shall not be present in any

pharmacy except as a customer during the active suspension of his license;
and

b. The remaining two (2) month suspension of Respondent Artemes's license shall be stayed for a period of two (2) years that shall commence upon the conclusion of his two-week active suspension. The stay of the suspension of Respondent's license is subject to the following conditions:

i. During the stay period, Respondent Artemes shall not serve as a pharmacist-manager;

ii. During the stay period, Respondent Artemes shall not serve as a preceptor to pharmacy students;

iii. Respondent Artemes shall cooperate with the Board, its attorneys, investigators and other representatives in any investigation and compliance with the provisions of this Consent Order;

iv. During the stay period, Respondent Artemes shall violate no laws governing the practice of pharmacy or the distribution of drugs; and

v. During the stay period, Respondent Artemes shall violate no rules and regulations of the Board;

3. Respondent Artemes shall notify Executive Director of the Board, in writing, of the sale of the Pharmacy within ten (10) days of the closing of such sale.

4. 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.

This the 27th day of March, 2007.

NORTH CAROLINA BOARD OF PHARMACY

By: 

Jack W. Campbell, IV
Executive Director

Ares L. Artemes, the holder of license number 4190 has full knowledge that he has the right to a hearing, at which he would have the right to be represented at his 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, he certifies that he has read the foregoing Consent Order and that he 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 he 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 he has the right to have counsel of his choice review and advise him with respect to his rights and this Consent Order, and represents that he enters this Consent Order after consultation with his counsel or after knowingly and voluntarily choosing not to consult with counsel.

CONSENTED TO BY:

Ares L. Artemes Date 3-16-2007
Ares L. Artemes
(License No. 4190)

NORTH CAROLINA

Millsboro 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: 03/16/07 _____

Mary Vandenberg
Notary Public

MARY VANDENBURG

My commission expires: 10/18/2010

The Pharmaceutical Center #2, permit number 3013, has full knowledge that it has the right to a hearing, at which it would have the right to be represented at the 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 party 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.

CONSENTED TO BY:

THE PHARMACEUTICAL CENTER #2 (Permit No. 3013)

By: Alex L. Artemas

Title: Pres. - Treu Date 3-16-2007

NORTH CAROLINA

Mecklenburg 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: 03-16-07

Mary Vanderburg
Notary Public

MARY VANDERBURG

My commission expires: 10/18/2010

OBJECTED TO BY: _____ Date _____

Ares L. Artemes
(License No. 4190)

OBJECTED TO BY: THE PHARMACEUTICAL CENTER #2
(Permit No. 3013)

By: _____

Title: _____ Date _____