

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

FAULKNER'S DRUGS
(Permit No. 5036)

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CONSENT ORDER

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 April 15, 2013 and, after appropriate notice, was heard on that day by Board member R. Joseph McLaughlin, Jr. at the offices of the Board. Respondent Faulkner's Drugs (Permit No. 5036) (hereinafter, "Respondent" or "Faulkner's") was present at the conference, through its pharmacist-manager. Board Counsel Joseph A. Ponzi and members of the Board's investigative and legal staff were present at this conference, as were related respondents.

Respondent 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, Respondent 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 Board 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. Respondent holds Permit No. 5036 and is located at 215 East Jefferson St., Monroe, North Carolina. Respondent is and was, at all relevant times referenced to herein, subject to the rules and regulations of the Board and the laws of the State of North Carolina.

3. On April 27, 2012, Faulkner's improperly prepared and dispensed Morphine ER 60 mg to an elderly patient whose prescription called for Morphine ER 15 mg. The patient ingested approximately seven tablets of the errant medication. Thus, Respondent dispensed, and the patient ingested, four times the prescribed amount of Morphine, a schedule II controlled substance. As a result, the patient suffered a morphine overdose and was hospitalized.

4. On the date that the prescription was filled, Respondent permitted more than two technicians to work under the supervision of one pharmacist without Board authorization. One pharmacist supervised more than two technicians continuously from 10:30 a.m. to 5:30 p.m., which contributed to an increased risk of patient harm.

5. On October 2, 2012, Faulkner's prepared five prescriptions for a patient. The prescriptions called for, among other things, Losartan 100 mg and Hydrocodone/APAP 5/325 mg (a schedule III controlled substance). A vial was labeled for the Hydrocodone prescription, but instead was improperly filled with a second dose of the Losartan prescription. The prescription was dispensed by the pharmacist-manager, but the prescription labels and pharmacy records incorrectly reflect the initials of another pharmacist employed by Respondent. As a result of the error, the patient ingested twice the amount of the prescribed Losartan, an amount in excess of the normal therapeutic dose, until October 11, 2012, when he began to suffer from flu-like symptoms.

6. In addition, inspections performed by Board investigators of Faulkner's revealed the following serial violations:

- a. On February 29, 2012, Respondent: (1) did not maintain proper storage and security for schedule II controlled substances; (2) maintained seven vials in active stock that lacked lot numbers or expiration dates; (3) maintained drugs in active dispensing stock that had expired over six months ago; and (4) maintained a compounding log that did not identify the compounder or include the reviewing pharmacist's initials.
- b. On June 1, 2012, Respondent: (1) maintained four vials in active stock that lacked lot numbers or expiration dates; (2) maintained eleven items in active dispensing stock that had expired over six months ago; and (3) maintained a pharmacist-to-technician ratio of one-to-three, without Board authorization.
- c. On November 8, 2012, Respondent: (1) kept the compounding room, equipment and utensils in an unsanitary and disorganized condition that posed a threat to the public health, safety and welfare; (2) maintained seven vials in active stock and nine vials in the compound room that lacked lot numbers or expiration dates; (3) maintained eleven items in active dispensing stock that had expired over six months ago, including drugs that had been specifically noted in Respondent's June 1, 2012 inspection; (4) maintained a ratio of pharmacists-to-technicians of one-top-three, without Board authorization; (5) maintained a compounding log that did not identify the compounder or include the reviewing pharmacist's initials; and (6) maintained two vials of Simvastatin in active stock that had previously been dispensed to a patient by another pharmacy.

- d. On November 29, 2012, Respondent: (1) kept the compounding room, equipment and utensils in an unsanitary and disorganized condition that posed a threat to the public health, safety and welfare; (2) maintained seven vials in active stock that lacked lot numbers or expiration dates; (3) had eleven items in active dispensing stock that had expired over six months ago, including drugs that had been specifically noted in Respondent's June 1, 2012 inspection; and (4) failed to collect documentation of refusal to counsel on delivery prescriptions.

CONCLUSIONS OF LAW

Based on the above findings, the Board concludes as a matter 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. Respondent's conduct, as set out in the findings of fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 90-85.38 because Respondent's acts were in violation of N.C. Gen. Stat. §§ 90-85.15A(c), 90-85.29, 90-85.30, 90-85.38(a)(6), (7) and (9) and (b); 90-104, 90-106, 90-108, 106-122, 106-134 and 106-134.1; and 21 N.C.A.C. 46 .1601(a), 46 .1802(b), 46 .1803, 46 .1805, 46 .1810(4), (6) and (7), 46 .1818, 46 .2302, 46 .2303, 46 .2304, 46 .2508, and 46 .3001(a); 21 U.S.C. 331, 827, 829, 842 and 843; 21 C.F.R. 1301.71, 1301.75, 1304.03, 1304.04, 1304.21, and 1304.22.

3. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on its permit under N.C. Gen. Stat. § 90-85.38.

Based upon the foregoing, and with the consent of the parties, IT IS THEREFORE ORDERED that the permit of Respondent Faulkner's Drugs, Permit No. 5036, is hereby REPRIMANDED.

This the 14th day of May, 2013.

NORTH CAROLINA BOARD OF PHARMACY

By: 

Jack W. Campbell, IV
Executive Director

Faulkner's Drugs, the holder of permit number 5036, 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 he 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 him 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: Faulkner's Drugs (Permit No. 5036)

By: David Jamison Date 5-7-13

NORTH CAROLINA

Union 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: David Jamison

Date: May 7, 2013

Martha Somerville
Notary Public
Martha Somerville

My commission expires: Aug 14, 2015

