

BEFORE THE KANSAS STATE BOARD OF PHARMACY
900 SW JACKSON, STE. 560
TOPEKA, KS 66612-1597

Filed

FEB 04 2008

KANSAS STATE
Board of Pharmacy

IN THE MATTER)
)
OF)
)
WASHINGTON HEALTHMART,)
RESPONDENT)
_____)

Case No. 07-32

CONSENT ORDER

NOW, on this 11th day of, December 2007, the captioned case comes before the Kansas State Board of Pharmacy (Board) by agreement of Respondent, Washington Healthmart for the purpose of resolving this matter. The Board appears by and through Paul J. Morrison, Attorney General of Kansas, and Derenda J. Mitchell, Assistant Attorney General. Washington Healthmart does not appear in person, but provides its authorized signature by agreement. The Board, upon mutual consent of the Respondent, finds as follows:

1. Respondent currently holds a registration and permit to operate a pharmacy in the State of Kansas under registration number 2-06735.
2. Respondent operates a pharmacy at 227 C. Street, Washington, Kansas, 66968.
3. The Board has jurisdiction over Respondent and is authorized to enter into this Consent Order.
4. Respondent is found to have operated a pharmacy in such a manner that violations of the provisions of the Pharmacy Act of the State of Kansas, K.S.A. 65-1626

et seq., and of the rules and regulations of the Board, K.A.R. 68-1-1a et seq., have occurred in connection therewith.

5. A pharmacist licensed by the Board and employed by the Respondent dispensed butophanol spray to a patient.

6. The prescription actually called for Migranal Spray.

7. The consumer told her doctor at a Chicago clinic that the butophanol spray was working so the doctor faxed more refills to the Washington Healthmart.

8. The consumer used what she thought was a refill of the Migranal and reported to the clinic that the spray was not working like the previous spray.

9. A nurse from the clinic phoned the Washington Healthmart.

10. Lynn Schneider, R.Ph., License #1-09132 told the nurse that he had made a mistake.

11. Lynn Schneider reported to the Inspector for the Board, Mr. Jim Kinderknecht, that the doctor had phoned in the prescription correctly but his technician, Kelli Tgethoff, Registration #14-01421, inadvertently ordered the generic Stadol spray from the wholesaler.

12. The Respondent completed the incident report but failed to include the name, address, age, and phone number of the complainant, the license number of each licensee involved, the date of the report, and the steps taken to prevent a recurrence.

13. Filling a prescription that is not in strict conformity with the directions of the prescriber is a violation of K.S.A. 65-1637(a)(6).

14. Respondent is subject to discipline under K.S.A. 65-1627(a)(6) by failing to fill a prescription in strict conformity with the directions of the prescriber.

15. K.A.R. 68-7-12b(b) sets forth the requirements for completing incident reports.

16. Respondent failed to complete the incident report as required by K.A.R. 68-7-12b(b).

17. K.S.A. 65-1627(a)(8) provides for discipline for violations of any of the statutes or regulations of the Board.

18. K.S.A. 65-1627(e) authorizes the Board to revoke, suspend, place in a probationary status or deny a renewal of the registration of a pharmacy when the pharmacy has been operated in such a manner that violations of the provisions of the Pharmacy Act or of the rules and regulations of the Board occurred in connection with the operation of the pharmacy.

19. In addition, the Board may issue a civil fine for violation of the provisions K.S.A. 65-1627 in an amount not to exceed \$5,000 for each violation.

20. In order to avoid the expense of a full adjudicatory hearing and to avoid the possibility of discipline greater than that issued herein, Respondent voluntarily enters into this agreement.

21. Respondent understands and waives all rights to notice, a hearing, an adjudication of facts and law, or any manner of review or reconsideration of the findings made herein.

22. Respondent further agrees and waives any right to review, reconsideration, appeal, or modification of any findings.

20. The Board retains the right to discipline Respondent for violations of the Kansas Pharmacy Act and any regulations promulgated thereunder.

21. Respondent consents to this Consent Order and understands that if it is approved, this Consent Order becomes a final order of the Board, without rights of review, reconsideration, appeal or modification or to a formal notice of hearing.

22. In order to comply with this Consent Order, Respondent must first sign and return the Consent Order with the signature of an authorized representative of Respondent affixed to the Consent Order to be received at the office of Assistant Attorney General Derenda J. Mitchell no later than noon on November 28, 2007.

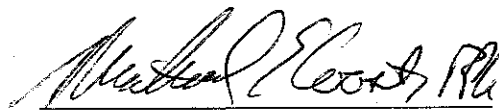
24. Respondent also agrees and provides payment within 30 days of the date of the hearing approving this order to pay fines in the amount of \$500 for its violations of 65-1627(a)(8) and K.A.R. 68-7-12b pertaining to incident reports.

25. Lynn Schneider, R.Ph. is the pharmacist in charge and warrants that he is authorized to sign this Consent Order on behalf of the Respondent.

26. The signature of the pharmacist in charge binds the Respondent to the terms and conditions of this order in all respects.

WHEREFORE, THIS VOLUNTARY DISCIPLINE IS HEREBY MADE THE FINAL ORDER OF THE BOARD effective on the date indicated in the certificate of service.

Entered in Shawnee County, Kansas, December 11, 2007.


Chair, Kansas Board of Pharmacy

Approved by :

Lynn Schneider RPh
Authorized Representative of
Washington Healthmart

11/20/07
Date

Certificate of Service

This is to certify that on the 4 day of February, 2008, a true and correct copy of the above and foregoing was sent by regular first-class mail, postage prepaid, addressed to:

Lynn Schneider, R.Ph.
Washington Healthmart
227 C. Street
Washington, KS 66968

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Debra J. Billingsly
On Behalf of the Board