

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

Filed
FEB 01 2008
KANSAS STATE
Board of Pharmacy

IN THE MATTER)
)
OF)
)
DILLON PHARMACY,)
RESPONDENT)
_____)

Case No. 07-51

CONSENT ORDER

NOW, on this 30th day of January 2008, the captioned case comes before the Kansas State Board of Pharmacy (Board) by agreement of Respondent, Dillon Pharmacy, 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. Dillon Pharmacy 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 license to operate a pharmacy in the State of Kansas, license number 2-09536 .
2. Respondent operates a pharmacy at 6829 SW 29th, Topeka, KS 66614, #37.
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 consumer complained to the Respondent that his prescription for Lortab was dispensed as 7.5/325 instead of for 7.5/500, as prescribed.

6. Respondent told the consumer that what was prescribed by the physician was Lortab 7.5/325.

7. The consumer made an appointment with the physician who verified to the consumer that Lortab 7.5/500 was what was prescribed.

8. The Kansas Pharmacy Compliance Inspector, James Kinderknecht, R.Ph., investigated the complaint.

9. The inspector asked Respondent for a copy of the incident report.

10. Mr. Phil Kanelakos, R.Ph., the pharmacist in charge, could not locate an incident report.

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

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

13. Violations of K.A.R. 68-2-20(a)(5) and K.A.R. 68-2-20(b) are violations of 65-1625(a)(8) requiring compliance with the rules and regulations of the Board.

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

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

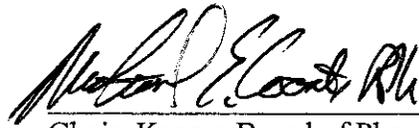
22. In order to comply with this Consent Order, Respondent must first sign and return the Consent Order with the signature of an authorized representative of Respondent affixed to the Consent Order to be received at the office of Assistant Attorney General Derenda J. Mitchell no later than noon on January 11, 2008.

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

24. In the event the Board does not approve this Consent Order, the Board retains jurisdiction of the matter. Respondent agrees that the Board may continue to conduct proceedings to determine the discipline to which the Respondent is subject, and Respondent waives any objection to the Board's hearing of Respondent's discipline upon disapproval of the consent order for any reason.

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, January 30, 2007.


Chair, Kansas Board of Pharmacy

Approved by :


Authorized Representative of
Respondent

1/10/2008
Date

Certificate of Service

This is to certify that on the 1 day of ^{February}~~February~~ 2008, a true and correct copy of the above and foregoing was sent by regular first-class mail, postage prepaid, addressed to:

Dillon Companies, Inc.
Resident Agent: Corporation Service Company
200 SW 30th Street,
Topeka, Ks 66611

Dillon Stores
2700 E. 4th
Hutchinson, KS 67501

Derenda J. Mitchell
Assistant Attorney General
Memorial Building
120 SW 10th Street
Topeka, KS 66612
Disciplinary Counsel to the Board

Randall Forbes
General Counsel to the Board
Frieden and Forbes
555 S. Kansas Ave.
Topeka, KS 66601


On Behalf of the Board

PHARMACY INCIDENT REPORT FORM

INGESTED or APPLIED: yes no

<u>615</u> Division	<u>037</u> Store #	<u>06/18/2007</u> Date Incident Occurred	<u>01/09/2008</u> Date Incident Reported to RX
<u>(785) 228-4204</u> Pharmacy Phone No.	<u>6829 SW 29th Street</u> Pharmacy Address (Street)	<u>Topeka</u> City	<u>Ks. 66614</u> State Zip Code
<u>James Curry</u> Patient's Name (First Last)	<u>(785) 969-6759</u> Home Phone No.	<u>()</u> Work Phone No.	
<u>407 NE Ohio</u> Patient's Address (Street)	<u>Topeka</u> City	<u>Ks</u> State	<u>66603</u> Zip Code
<u>07/27/1954</u> Date of Birth	<u>M</u> <input checked="" type="checkbox"/> <u>F</u> <input type="checkbox"/> Gender	<u>Phil Kanelakos</u> Parent/Guardian Name (if Minor)	<u>Phil KANELAKOS</u> Signature of Pharmacist REPORTING Incident (Print Name also)

DRUGS INVOLVED & STRENGTH		RX info: New <input checked="" type="checkbox"/> Refill <input type="checkbox"/>	Cause Code <u>119</u> (see list)
<u>Refill auth Lortab 7.5</u> Prescribed Drug & Strength	<u>1 QID prn pain</u> Directions		<u>pain</u> Intended Use
<u>Hydrocodone-apap 7.5/325</u> Dispensed Drug & Strength	<u>1 QID prn pain</u> Directions		<u>pain</u> Intended Use
<u>Original Quantity Dispensed: 120</u>	<u>Quantity Returned: 0</u>		<u>Quantity ingested or applied: unk</u>
<u>Phil Kanelakos</u> Verifying/Filling Pharmacist Involved	<u>Other personnel involved in filling</u>	<u>4023257</u> RX Number	<u>06/18/2007</u> Date Actually Filled
Alleged Incident detected by: Patient/Guardian <input checked="" type="checkbox"/> Pharmacist <input type="checkbox"/> Technician <input type="checkbox"/> Doctor <input type="checkbox"/>			
Who has custody of medication container? Pharmacy <input type="checkbox"/> Patient <input checked="" type="checkbox"/> Other _____			

INCIDENT (DESCRIBE FULLY)——use additional page if necessary

Refill was called in by Deby White to refill pt's lortab-7.5 which he had been on, when pt picked up med he said was supposed to be 7.5/500. He had previously been on 7.5/325 per older Rx's & had been changed to that strength per PO by Brenda Bower & refilled per faxed request signed by Dr Garner himself for the 7.5/325 & Deby called in refill so pt got previous dose.

Was Prescriber contacted? YES NO Prescriber Name: Steve Garner Prescriber Phone: (785) 478-1500

Prescriber's Comments: After pt. left I did call the nurse & she said if pt wants that strength it was OK with her and she did not say that the 7.5/325 was the wrong strength.

Possible common side effects of the incident Possibly less pain control.

Symptoms, if any, being reported by patient or agent, impacting Patient Health _____

Has patient requested treatment? YES NO Received treatment? YES NO Describe: Do not know.

Customer's attitude about incident (describe what patient or guardian said or did)
Patient was mad about strength & I said there was just a little less apap in this dose.

Do you think this can be resolved at store level? YES NO Amount/Terms of store settlement _____

Date Report Sent 1-9-08 Pharmacy MGR Signature: P. Kanelakos Store MGMT Name (notified) _____

Fax or email as per your division requirements to: 1. Division Risk Management 2. Division Pharmacy Management
 3. Zone Pharmacy Coordinator 4. Keep original in pharmacy.

Please also fax and/or mail a photocopy of the prescription(s) involved (both front and back)

NAME James Curry 17-21025 PHONE
ADDRESS

Rx
Refill Cortab- 7.5
#120
TQID PA

COT

REFILLS	AGENT PHONING IN
PHYSICIAN NAME <u>S GARNER</u>	DEA NUMBER
PHYSICIAN ADDRESS	PHONE NUMBER
PHARMACIST NAME <u>Deby White</u>	TIME <u>IVR</u>

RX# 4023257 CD#1807 TX:1527431 written:07/18/07
 PHK FILLS: 00.0 DAW: 0
 JAMES CURRY DOB: 07/27/1954
 407 NE OHIO TOPEKA KS 66608 (785) 939-8759
 S A GARNER MD
 DEA: 864114031
 Ord: HYDROCODN/APAP TAB 7.5/325 F: (785) 478-1508
 HYDROCODN/APAP TAB 7.5/325 6725 SW 23TH ST.
 MFG: MALLINCKRODT TOPEKA KS 66614
 NDC: 00406-0266-07 V: (785) 478-1500
 Order Qty: 120 Disp Qty: 120 Days: 30

TAKE ONE TABLET BY MOUTH FOUR
 TIMES DAILY AS NEEDED FOR PAIN

NEW

Prescription Request for: **Dr. STEVEN GARNER**
 Voice Line: (785) 478-1500
 6725 SW 29TH ST., TOPEKA, KS 66614
 Fax Line: (785) 478-1508

Date: 05/18/2007 Time: 9:42 AM
 Fax Line: (785) 228-4208
 Voice Line: (785) 228-4204

This request is from:
 DILLON PHARMACY #37 # 37
 6229 W. 29TH
 TOPEKA, KS 66614

Rx Number: 4022453 Last Date Dispensed: 04/12/2007
 Patient: JAMES CURRY
 Address: 407 NE OHIO TOPEKA, KS 66603
 Drug Written For:
 Drug Dispensed: HYDROCODONE/APAP TAB 7.5/325
 Written For Quantity: 120 Dispense Quantity: 120
 Directions: TAKE 1 TABLET BY MOUTH FOUR TIMES DAILY
 NDC: 00408-0366-01
 (785) 969-6759

Original refills authorized: 0 refills
 Authorized: Once plus additional refills authorized 1 2 3 4 5 6
 Denied: _____
 Message to Patient: _____
 Comments: _____
 Print name if authorized by a different Prescriber: _____
 DEA# if authorized by a different Prescriber: _____
 Authorized by: _____
 Please note: Unless DAW is written on this prescription request, a generic drug may be used.

Signature: _____
 DAW
 Signature: _____
 May Substitute

PhGen's requested pickup time:

After completing the above form, please fax back to:
 DILLON PHARMACY #37 # 37
 TOPEKA, KS 66614

Fax Line: (785) 228-4208
 Voice Line: (785) 228-4204

Confidentiality notice:

This message is intended only for the use of the individual or entity to which it is addressed and contains information that is legally privileged and confidential. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified disclosure, or copying of this communication is strictly prohibited. If you have in error, please notify us immediately by telephone at the number listed above.

RX# 40222887 05/18/07 13:15:19074
 JAMES CURRY
 407 NE OHIO TOPEKA KS 66603
 Oid: HYDROCODONE/APAP TAB 7.5/325
 NDC: 00408-0366-01
 Order Qty: 120 Disp Qty: 120
 Date: 05/18/07
 V: (785) 478-1500
 FAX: (785) 478-1500
 DAW: 0
 F: (785) 478-1508
 S: A GARNER MD
 17851 969-6759
 DOB: 07/27/1954
 MAILING ADDRESS: 6725 SW 29TH ST. TOPEKA, KS 66614
 TAKE 1 TABLET BY MOUTH FOUR TIMES DAILY
 NEW

RX# 4022453 DAW: 0 TX: 1511401 Written: 04/12/07
 PHK FILLS: 00.0 DAW: 0
 JAMES CURRY DOB: 07/27/1954
 407 NE OHIO TOPEKA KS 66602 (785) 982-0760
 S A GARNER MD
 Ord: HYDROCODNIAPAR TAB 7.5/325 DEA: BG4114031
 HYDROCODNIAPAR TAB 7.5/325 F: (785) 478-1508
 Mfg: MALLINCKRODT 6925 SW 28TH ST.
 NDC: 00406-4366-01 TOPEKA KS 66614
 Order Qty: 120 Dist Qty: 120 V: (785) 478-1500
 TAKE 1 TABLET BY MOUTH FOUR
 TIMES DAILY

NEW

4-12-07

NAME <i>James Curry</i>	DATE OF BIRTH <i>7-27-54</i>	DATE
ADDRESS		PHONE

Rx *Lor tabs 7.5/325*
÷ QID #120
Work Comp

COUNSEL
 WAS 15/100

PHYSICIAN NAME <i>Garner</i>	REFILLS NR <i>0</i>	AGENT PHONING IN
PHYSICIAN ADDRESS	DEA NUMBER	PHONE NUMBER
PHARMACIST NAME <i>Brenda Brewer</i>	DAW INDICATOR	TIME