



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-070111-026)

In The Matter Of:

JENNIFER ANN MENDER, R.Ph.

19669 St. Rt. 93 South

Logan, Ohio 43138

(R.Ph. No. 03-2-26140)

INTRODUCTION

THE MATTER OF JENNIFER ANN MENDER CAME FOR HEARING ON APRIL 9, 2007, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JAMES E. TURNER, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; HEATHER L. PASQUALE, R.Ph.; AND DOROTHY S. TEATER, PUBLIC MEMBER.

JENNIFER ANN MENDER WAS REPRESENTED BY DAVID W. GRAUER. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witness

1. Robert Amiet, Jr., R.Ph., Compliance Specialist, Ohio State Board of Pharmacy

Respondent's Witnesses

1. Jennifer Ann Mender, R.Ph., Respondent
2. Michael Schneider, R.Ph.

State's Exhibits:

1. Notice of Opportunity For Hearing letter [01-11-07]
- 1A-1C. Procedurals
2. Rx #309993 [11-18-05]
3. CVS Pharmacy #3454 Patient Prescription Record [11-18-05 to 08-22-06]
4. DUR History Report [02-16-06]
5. Notarized Statement of Jennifer Enderle Mender, R.Ph. [08-22-06]
6. Rx #411326 [07-30-04]
7. Rx #634454 [08-08-05]
8. CVS Pharmacy #6195 Prescription Register [09-08-05 to 09-10-05]
9. CVS Pharmacy #6195 Patient Prescription Record [01-01-05 to 02-01-05]

Respondent's Exhibits:

A-B. Two Letters of Support [03-20-07 and 03-29-07]

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the State Board of Pharmacy indicate that Jennifer Ann Mender was originally licensed by the State of Ohio as a pharmacist on July 29, 2004, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Jennifer Ann Mender did, on or about November 18, 2005, dispense a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when dispensing Rx #309993, Jennifer Ann Mender did not indicate the directions for use of the drug as was prescribed by the physician. Zantac liquid had been prescribed for a two-month old child, to be taken 0.7 ml twice daily. Jennifer Ann Mender affixed a label directing 7 ml to be taken twice daily. Further, Jennifer Ann Mender's action caused this prescription to be refilled incorrectly on or about December 2, 2005, December 12, 2005 and December 23, 2005. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.
- (3) Jennifer Ann Mender did, on or about November 18, 2005, prior to dispensing Rx #309993, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Jennifer Ann Mender failed to adequately review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. On November 18, 2005, when dispensing 7 ml, twice daily, for a two-month old child, Jennifer Ann Mender over-rode the DUR profile screen warning of problems for this drug, amount, and age of the patient. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (4) Jennifer Ann Mender did, on or about July 30, 2004, misbrand a drug, to wit: when Jennifer Ann Mender received a prescription for Zantac liquid for a five-week old infant, Rx #411326, she dispensed Zyrtec liquid, which had not been specifically prescribed by the physician. The patient subsequently became "very sick and vomited frequently." Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code, and constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (5) Jennifer Ann Mender did, on or about September 8, 2005, misbrand a drug, to wit: when Jennifer Ann Mender received a prescription for triamterene 37.5 mg with hydrochlorothiazide 25 mg, Rx #634454, she dispensed Nexium 40 mg, which had not been specifically prescribed by the physician. The patient subsequently experienced harm. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 3715. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby adjudicates the matter of Jennifer Ann Mender as follows:

On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on Jennifer Ann Mender a monetary penalty of seven hundred and fifty dollars (\$750.00) due and owing within thirty days of the mailing of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Further, the State Board of Pharmacy stipulates that:

Jennifer Ann Mender must obtain, within six months from the effective date of this Order, ten hours of continuing pharmacy education (0.3 CEUs) on Pediatric Dosing and (0.7 CEUs) on Medication Errors, which may not also be used for license renewal.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: **May 14, 2007**

By: _____
William T. Winsley, M.S., R.Ph., Executive Director

WTW/lf

CERTIFIED MAIL/Return Receipt
7001 0360 0002 4139 3364

c: Sally Ann Steuk, Assistant Attorney General
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