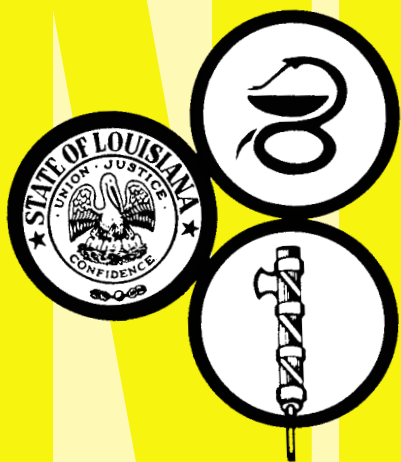


July 2004



Louisiana Board of Pharmacy

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Published to promote voluntary compliance of pharmacy and drug law.

Corresponding Responsibility (04-07-186)

"A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his [or her] professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of the Controlled Substances Act, and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances." [21 CFR 1306.04]

The foregoing paragraph is abstracted from Drug Enforcement Administration regulations. In addition, Louisiana Board of Pharmacy regulations require that pharmacists verify the authenticity and legitimacy of every prescription they choose to dispense. While the Board does not specify the types of actions pharmacists must employ in their verification process, the Board does expect pharmacists to exercise sound professional judgment in making such determinations. There is nothing that requires a pharmacist to dispense a prescription of doubtful origin; in fact, a pharmacist who dispenses such prescriptions when he or she knew, or should have known, those prescriptions were doubtful may be prosecuted, along with the issuing practitioner.

As part of our professional education, pharmacists learn the signs and circumstances that suggest a prescription may not be authentic or legitimate including patient behaviors and practitioner prescribing patterns. Several courts have held that "deliberate ignorance" (sometimes called the "ostrich syndrome") is not a valid legal defense for pharmacists. We encourage you to exercise sound professional judgment and refrain from dispensing prescriptions that are not authentic or legitimate.

Continuing Pharmacy Education (04-07-187)

The regulation for continuing education (CE) for pharmacists is found on page 80 of the *Louisiana Pharmacy Law Book*. That regulation requires pharmacists to earn a minimum of 15 hours of Accreditation Council for Pharmacy Education (ACPE)- or Board-approved CE each year as a prerequisite for licensure renewal – there is no carry-over from prior years. Further, the regulation requires pharmacists to maintain copies of their CE records at their primary practice site for at least two years and to make them available to the Board upon request. Newly licensed pharmacists are exempted from CE requirements for only their first licensure renewal. The CE regulation for pharmacy technicians is found on page 90 of the *Louisiana*

Pharmacy Law Book. The regulation is the same as for pharmacists except the number of hours required is 10, not 15.

The ACPE Universal Program Number contains five sets of characters connected by dashes. The last set of characters contains a letter followed by two numbers. The letter is a format designator ("L" for live offerings, "H" for home study and other mediated offerings, and "C" for offerings that contain both live and home study or other mediated components). The date of credit for live offerings is the date of the presentation. The date of credit for home study or combination offerings is the date the provider issues credit. Pharmacists must earn at least 15 hours credited in the 12-month period prior to the renewal date of January 1; pharmacy technicians must earn at least 10 hours credited in the 12-month period prior to the renewal date of July 1.

In order to report a CE credit, you must be in physical possession of the actual certificate – attendance verifications, test reports, etc, do not contain the date of credit – only the certificate contains all the required information. Because some CE providers are slow to transmit certificates near the end of a calendar year, you should not wait until the end of the year to obtain your necessary CE credits.

Prohibited Substitutions (04-07-188)

The federal Food, Drug, and Cosmetic Act of 1938 required Food and Drug Administration (FDA) to establish certain criteria for the approval of all drugs used in the United States. Drugs already on the market at that time were "grandfathered" and were allowed to remain on the market without further regulatory approval. Since these "grandfathered" drugs have never been approved by FDA, they do not appear in the listing of approved drug products with therapeutic equivalence evaluations (the "Orange Book"). Because these drugs do not appear in the "Orange Book," there are no FDA-approved therapeutic equivalent products.

If a prescription is written for a product under its proprietary name, and the product is not listed in the "Orange Book," the pharmacist must dispense it as written. The substitution of a different drug by the pharmacist would result in a misbranded prescription – a violation of federal and state pharmacy laws. The Board continues to receive complaints concerning illegal generic substitution of prescriptions with unapproved generic products. We encourage you to verify that all generic products you choose to dispense are listed in the "Orange Book." If you do not have the printed version of the "Orange Book," you can verify a product's status via the electronic version of that reference book at FDA's Web site, www.fda.gov.

Disciplinary Actions (04-07-189)

Although every effort is made to ensure the information is correct, you should call the Board office at 225/925-6496 to verify the accuracy

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of any listing before making any decision based on this information. During its May 6, 2004 administrative hearing, the Board took final action in the following matters:

Daniel Gerard Levy, II (Pharmacist License No. 14451), Voluntary Consent Agreement: License was suspended for five years, beginning March 31, 2004; further, no application for reinstatement shall be accepted prior to September 30, 2004; and further, respondent was assessed \$5,000 plus administrative and investigative costs. *Charges:* (1) unlawful distribution or dispensation of Schedule III controlled substances, (2) unlawful distribution or dispensation of Schedule V controlled substances, (3) unlawful possession, distribution, or dispensation of prescription drugs, (4) failure to properly exercise responsibility as Pharmacist-in-Charge, and (5) departure from, or failure to conform to, minimal standards of acceptable pharmacy practice.

Bonvillain Pharmacy (Pharmacy Permit No. 3497), Voluntary Consent Agreement: Permit was suspended for five years with execution thereof stayed, then placed on probation for five years, ending on May 5, 2009; further, permit was assessed \$1,000 plus administrative and investigative costs. *Charge:* (1) failure to timely submit required report, and pay associated fee, to Louisiana Medical Assistance Trust Fund.

Barbara Ann Olinde Roe (Pharmacy Technician Certificate No. 5018), Voluntary Consent Agreement: Certificate was suspended indefinitely; further, any reinstatement application shall require a meeting with the Board. *Charges:* (1) acquisition of a certificate by fraud or misrepresentation, (2) failure to furnish information legally requested by the Board, and (3) failure to comply with continuing education requirements.

Christopher Aaron McClure (Pharmacy Technician Certificate No. 3883), Voluntary Consent Agreement: Certificate was revoked, with no recourse for reinstatement or any application for the practice of pharmacy. *Charges:* (1) unlawful possession with intent to distribute a Schedule II controlled substance, (2) unlawful possession with intent to distribute a Schedule III controlled substance, and (3) unlawful acquisition of controlled substances by fraud or misrepresentation.

Karen A. Gibson (Pharmacy Technician Certificate No. 1946), Voluntary Consent Agreement: Certificate was revoked, with no recourse for reinstatement or application for the practice of pharmacy. *Charges:* (1) unlawful possession with intent to distribute a Schedule III controlled substance, (2) unlawful possession with intent to distribute a Schedule IV controlled substance, and (3) unlawful acquisition of controlled substances by fraud or misrepresentation.

Justin Peter Breaux (Pharmacy Technician Candidate Registration No. 9115), Voluntary Consent Agreement: Registration was revoked, with no recourse for reinstatement or any application for the practice of pharmacy. *Charges:* (1) unlawful acquisition of controlled substances by fraud or misrepresentation.

Natasha Dawn Holland (Pharmacy Technician Certificate No. 4999), Voluntary Consent Agreement: Certificate was revoked with no recourse for reinstatement or any application for the practice of pharmacy. *Charges:* (1) unlawful possession with intent to distribute a Schedule III controlled substance, (2) unlawful possession with intent to distribute a Schedule IV controlled substance, and (3) unlawful acquisition of controlled substances by fraud or misrepresentation.

The Board also issued Letters of Warning to one pharmacy permit, one pharmacist, and one pharmacy technician. With respect to the reinstatement of lapsed credentials, the Board granted requests from one pharmacy permit and pharmacy technician. With respect to impaired practitioners, the Board accepted the voluntary surrender of credentials from three pharmacists and four pharmacy technicians, granted a request for reinstatement from one pharmacist, and also granted a request for probation modification from one pharmacist.

Calendar Note (04-07-190)

The next Board meeting and administrative hearing will be held August 18-19, 2004, at the Board office in Baton Rouge.

Lagniappe (04-07-191)

“An adventure is only an inconvenience rightly understood. An inconvenience is only an adventure wrongly understood.” – C. K. Chesterton

Special Note (04-07-192)

The *Louisiana Board of Pharmacy Newsletter* is considered an official method of notification to pharmacies, pharmacists, pharmacy interns, pharmacy technicians, and pharmacy technician candidates credentialed by the Board. **These Newsletters will be used in administrative hearings as proof of notification.** Please read them carefully. We encourage you to keep them in the back of the *Louisiana Pharmacy Law Book* for future reference.

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