

BEFORE THE ARKANSAS STATE BOARD OF PHARMACY

**IN THE MATTER OF
JOHNNY LEE POWELL
P.D., No. 6650**

No. 2004-011

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

On June 11, 2004, the Arkansas State Board of Pharmacy (hereafter “the Board”) conducted a hearing in the above styled matter. After being duly served with notice, Johnny Lee Powell (hereafter “Respondent”) appeared in person and by counsel Kathleen Compton. From the testimony of witnesses, exhibits and evidence of record, the Board makes the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Respondent holds a pharmacist license issued by and is subject to the jurisdiction of the Board.
2. At all times relevant herein, Respondent was pharmacist-in-charge and owner of Sav-Mart Pharmacy in McGehee, Arkansas.
3. From on or about October 27, 1992 to October 10, 2003, Respondent delivered certain prescription drugs to Cornelia Wells Bryant as set forth in Attachment A attached hereto and incorporated by reference herein. The drugs identified in Attachment A are all prescription only, non-controlled drugs except HC Tussive which is a prescription only, Class III Controlled Substance. Respondent delivered each of the prescriptions identified in Attachment A hereto without the authorization of a practitioner. Respondent created fictitious prescription records in Sav-Mart Pharmacy for each of the new prescriptions identified in Attachment A hereto.

4. Dexamethasone 0.75 is a synthetic glucocorticoid with adverse reactions including sodium retention, fluid retention, muscle weakness, steroid myopathy, osteoporosis, petechiae and ecchymoses, erythema and glaucoma.

5. Cornelia Wells Bryant began experiencing bruising approximately 1996 or 97 and has since begun experiencing facial swelling, rashes, and pain in the hip joints.

CONCLUSIONS OF LAW

1. Respondent's deliveries of the prescription only, non-controlled drugs to Patient A as set forth above each constitutes a separate incident of delivery of misbranded drugs, Ark. Code Ann. § 20-56-211(11) and separate violations of Ark. Code Ann. § 20-56-215(1).

2. Respondent's violations of Ark. Code Ann. § 20-56-215 constitute unprofessional conduct pursuant to Board Regulation 02-04-0002(c) and gross unprofessional conduct pursuant to Ark. Code Ann. § 17-92-311(a)(7) (Repl. 2002).

3. Respondent's creating fictitious prescription records as set forth above constitutes separate incidents of fraud, deceit or misrepresentation in the practice of pharmacy each of which is a separate violation of Ark. Code Ann. § 17-92-311(a)(1) (Repl. 2002).

ORDER

IT IS THEREFORE ORDERED that Respondent Johnny Lee Powell's pharmacist license is hereby suspended for three (3) days to be served within the next 30 days.

IT IS FURTHER ORDERED that Respondent shall be on probation for a period of five (5) years. The conditions of probation are that Respondent shall fully comply with all state, federal and local laws and regulations regarding the practice of pharmacy, controlled substances and legend drugs.

IT IS FURTHER ORDERED that Respondent shall pay to the Board a monetary penalty in the amount of \$5,000.00 to be received within sixty (60) days.

IT IS FURTHER ORDERED that Respondent successfully complete the Board's jurisprudence examination within thirty (30) days.

IT IS FURTHER ORDERED that the Board shall retain jurisdiction of this matter for purposes of implementing and enforcing this Order and that Respondent's failure to comply with any provision herein shall constitute gross unprofessional or dishonorable conduct, A.C.A. § 17-92-311(a)(7), for which the Board may impose disciplinary action.

IT IS SO ORDERED THIS 13TH day of July 2004

ARKANSAS STATE BOARD
OF PHARMACY

CHARLES CAMPBELL PHARM. D.
EXECUTIVE DIRECTOR