

BEFORE THE ARKANSAS STATE BOARD OF PHARMACY

**IN THE MATTER OF
JACKIE BAGGETT
P.D., NO. 5144**

NO. 2005-021

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

On October 12, 2005, the Arkansas State Board of Pharmacy (“the Board”) conducted a hearing in the above-styled matter. After being duly served with notice thereof, Jackie Baggett (“Respondent”) appeared in person and by counsel Darren O’Quinn. From the testimony of witnesses, exhibits, and evidence of record, the Board enters 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. While practicing at Rose Drug, Paris, Arkansas, Respondent delivered tramadol 50 mg to Patients A and B as set forth in Attachment 1 and 2 hereto, incorporated by reference herein, without the authorization of a practitioner. Tramadol is a prescription-only, non-controlled drug (“legend drug”). Respondent recorded these deliveries in the Rose Drug pharmacy records as new prescriptions with no authorized refills.

3. On or about June 14, 2005, while practicing pharmacy at Don’s Drug, Mansfield, Arkansas, Respondent delivered 50 tramadol 50 mg, as Rx No. 522-918 to Patient A who presented an empty prescription container from Rose Drugs. Respondent delivered said legend drug to the patient on the basis that Patient A had a prescription at Rose Drug, Paris, Arkansas, but did not contact the practitioner for authorization for the

prescription or Rose Drug to transfer the prescription.

4. On or about June 16, 2005 while practicing pharmacy at Don's Drug, Mansfield, Arkansas, Respondent delivered 40 tramadol 50 mg as Rx No. 523-0005 to Patient B who presented an empty prescription container from Rose Drugs. Respondent delivered said legend drug to the patient on the basis that Patient B had a prescription at Rose Drug, Paris, Arkansas, but did not contact Rose Drug to transfer the prescription for tramadol to Don's Drug and did not contact the practitioner for authorization to refill the prescription.

5. On multiple occasions during the pharmacy's operating hours, Respondent personally consumed alcoholic beverages while on duty working as a pharmacist at Rose Drug. As a result of Respondent's consumption of alcoholic beverages while on duty as a pharmacist, Respondent could have failed to exercise competent professional judgment as a pharmacist or committed other mistakes while dispensing prescriptions to patients and thereby posed a risk to the public health and safety.

CONCLUSIONS OF LAW

1. Respondent's deliveries of legend drugs to Patient A without the authorization of a practitioner as set forth in Findings of Fact paragraph 2 above constitute deliveries of misbranded drugs, Ark. Code Ann. § 20-56-211(11), which are separate incidents in violation of Ark. Code Ann. § 20-56-215(1).

2. Respondent's violations of Ark. Code Ann. § 20-56-215 as set forth above constitute separate incidents of 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 delivery of the legend drug tramadol to Patients A & B while practicing at Don's Drug, without obtaining a transfer of the respective prescriptions from Rose Drugs or authorization from the practitioner, constitutes separate incidents of the delivery of misbranded drugs, Ark. Code Ann. § 20-56-211(11), which are separate incidents of violation of Ark. Code Ann. § 20-56-215(1).

4. Respondent's violations of Ark. Code Ann. § 20-56-215 as set forth above constitute separate incidents of 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).

5. Respondent's consumption of alcoholic beverages and posing a risk to the public health and safety as a result of use of alcoholic beverages as set forth above constitutes separate incidents of unprofessional conduct pursuant to Board Regulation 02-04-0001 and gross unprofessional conduct pursuant to Ark. Code Ann. § 17-92-311(a)(7) (Repl. 2002).

ORDER

IT IS THEREFORE ORDERED that the pharmacist license of Respondent Jackie Baggett be, and it is hereby, suspended. Respondent may appear at the next meeting of the Board with an evaluation and recommendation from the Board's Pharmacist Support Group. Upon a favorable recommendation from the Support Group at a Board meeting, Respondent's license suspension shall terminate. At the termination of this suspension, Respondent's license shall be on probation for a period of two years from the date of the

termination of the suspension. The terms of this probation are that Respondent shall fully comply with Arkansas Pharmacy Law, Ark. Code Ann. § 17-92-101 *et seq.*, Board Regulations, and all state, federal and local laws and regulations regarding the practice of pharmacy, controlled substances or legend drugs. During the period of probation, the pharmacy-in-charge where Respondent practices pharmacy shall submit quarterly audit reports of the pharmacy's Class II – V Controlled Substances to the Board.

IT IS FURTHER ORDERED that Respondent shall pay a monetary penalty of \$2,500 to the Board within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED that Respondent shall take the Board's law test prior to resuming the practice of pharmacy.

IT IS SO ORDERED this _____ day of November 2005.

ARKANSAS STATE BOARD
OF PHARMACY

by: _____
LARRY MCGINNIS, PHARM. D.
PRESIDENT