

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

JOSEPH BLACK
(License No. 7113)

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CONSENT ORDER

THIS MATTER came on to be considered at a prehearing conference (hereinafter, "Conference") before a member of the North Carolina Board of Pharmacy (hereinafter, "Board") pursuant to 21 N.C.A.C. 46 .2008. This Conference was scheduled for April 15, 2013 and, after appropriate notice, was heard on that day by Board member R. Joseph McLaughlin, Jr. at the offices of the Board. Respondent Joseph Black (License No. 7113) (hereinafter, "Respondent" or "Black") was present at the conference. Board Counsel Joseph A. Ponzi and members of the Board's investigative and legal staff were present at this conference, as were related respondents.

Respondent has agreed to waive a formal hearing in the above-referenced matter. Both parties stipulate and agree to the findings of fact and conclusions of law recited herein and to the order of discipline imposed. By his consent, Respondent also stipulates that he waives his right to appeal this Consent Order or challenge in any way the sufficiency of the findings of this Order. Based upon the consent of the parties, the Board hereby enters the following:

FINDINGS OF FACT

1. The Board is a body duly organized under the laws of North Carolina and is the proper body for this proceeding under the authority granted it in Chapter 90 of the General Statutes of North Carolina, and the rules and regulations promulgated thereunder.

2. Respondent is, and was at all relevant times referred to herein, a pharmacist licensed to practice pharmacy in the State of North Carolina with License No. 7113. At all relevant times, Respondent was employed as a pharmacist at Faulkner's Drugs, Permit No. 5036, located at 215 East Jefferson St., Monroe, North Carolina (the "Faulkner's"). Respondent is and was, at all relevant times referenced to herein, subject to the rules and regulations of the Board and the laws of the State of North Carolina.

3. On October 2, 2012, Faulkner's prepared five prescriptions for a patient. The prescriptions called for, among other things, Losartan 100 mg and Hydrocodone/APAP 5/325 mg (a schedule III controlled substance). A vial was labeled for the Hydrocodone prescription, but instead was improperly filled with a second dose of the Losartan prescription. As a result of the error, the patient ingested twice the amount of the prescribed Losartan, an amount in excess of the normal therapeutic dose, until October 11, 2012, when he began to suffer from flu-like symptoms.

4. Faulkner's records reflect that Respondent was responsible for dispensing the Losartan prescription. However, the pharmacist-manager at Faulkner's, David Jamison, License No. 6575, has claimed responsibility for dispensing the Losartan prescription.

5. The evidence suggests that Faulkner's and its pharmacists frequently dispensed prescriptions with the incorrect pharmacist initials on the labels and pharmacy records. Faulkner's did not require staff and pharmacists to log off of computers where the pharmacists left a work station, and the incorrect login frequently would be used when preparing prescriptions. Although the evidence further suggests that Respondent would initial the labels of prescriptions he dispensed, not all the pharmacists at Faulkner's followed this practice. These

operations by Faulkner's and its pharmacists made it impossible to definitively determine the dispensing pharmacist.

6. Respondent previously entered a Consent Order with the Board, dated June 19, 2012 (the "Prior Consent Order"), in part for the same failure to adequately track dispensing pharmacists as described herein while Respondent was employed at another pharmacy. Respondent is still under the two-year term of the Prior Consent Order, which required that Respondent, *inter alia*, "violate no laws governing the practice of pharmacy or the distribution of drugs," and further that Respondent "violate no rules or regulations of the Board."

CONCLUSIONS OF LAW

Based on the above findings, the Board concludes as a matter of law:

1. All parties are properly before the Board, and the Board has jurisdiction over Respondent and the subject matter of this proceeding.

2. Respondent's conduct, as set out in the findings of fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 90-85.38 because Respondent's acts were in violation of N.C. Gen. Stat. §§ 90-85.38(a)(6), (7) and (9), 90-85.40(b) and (f), 21 N.C.A.C. 46 .2302, 21 N.C.A.C. 46 .2303, and 21 N.C.A.C. 46 .2304. Respondent's conduct further violated the terms of the Prior Consent Order.

3. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under N.C. Gen. Stat. § 90-85.38.

Based upon the foregoing, and with the consent of the parties, IT IS THEREFORE ORDERED that the stayed suspension of the license of Respondent Black, License No. 7113, imposed by the Prior Consent Order is hereby activated for one (1) day, commencing within 30 days of the date that the Executive Director executes this Order after Board approval, with

Respondent to notify the Executive Director in writing in advance of service of the suspension. The active suspension shall occur on a weekday (Monday to Friday), and shall begin at 12:01 a.m. During the term of his suspension, Respondent may not be present in any pharmacy, except as a customer with a valid prescription.

The other nineteen (19) days of the suspension under the Prior Consent Order shall remain stayed for the remainder of the two (2) year term under that Order, upon the following conditions:

1. Respondent shall not serve as pharmacist-manager of any pharmacy;
2. Respondent shall not serve as a preceptor of pharmacy students;
3. Respondent shall advise the Board promptly in writing of any change of address or change in practice status;
4. Respondent shall obtain prior written approval of all employment as a pharmacist from the Board's Executive Director;
5. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs; and
6. Respondent shall violate no rules or regulations of the Board.

If Respondent fails to comply with any terms or conditions of this Order, Respondent may be subject to additional disciplinary action by the Board.

This the 24th day of June, 2013.

NORTH CAROLINA BOARD OF PHARMACY

By: 

Jack W. Campbell, IV
Executive Director

Joseph Black, the holder of license number 7113, has full knowledge that he has the right to a formal hearing, at which he would have the right to be represented at his expense by counsel, in this matter. The undersigned freely, knowingly and voluntarily waives such right by entering into this Consent Order.

The undersigned understands and agrees that by entering into this Consent Order, he certifies that he has read the foregoing Consent Order and that he voluntarily consents to the terms and conditions set forth therein and relinquishes any right to judicial review of Board actions which may be taken concerning this matter.

The undersigned further understands that should he violate the terms and conditions of this Consent Order, the Board may take additional disciplinary action.

The undersigned understands and agrees that this Consent Order will not become effective unless and until approved by the Board.

The undersigned understands that he has the right to have counsel of his choice review and advise him with respect to his rights and this Consent Order, and represents that he enters this Consent Order after consultation with his counsel or after knowingly and voluntarily choosing not to consult with counsel.

CONSENTED TO BY:

Joseph Black Date 5/13/13
Joseph Black
(License No. 7113)

NORTH CAROLINA

Union COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that the following person(s) personally appeared before me this day, and each acknowledged the due execution of the foregoing document: Joseph Black

Date: May 13, 2013

Martha Somerville
Notary Public

Martha Somerville

My commission expires: Aug 14, 2015

