

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF)
)
OUT-OF-STATE PERMIT) **FINAL CONSENT ORDER**
APPLICATION OF)
AVITA DRUGS, LLC)
_____)

THIS MATTER came on to be heard before the North Carolina Board of Pharmacy (the “Board”) at a prehearing conference on March 14, 2016, on the consent of the parties. Both parties stipulate and agree to the findings of fact and conclusions of law recited herein and to the order imposed. By its consent, the Petitioner Avita Drugs, LLC (“Avita”) waives its right to appeal this Final Consent Order. Avita also stipulates that the findings of fact and conclusions of law are legally sufficient to support this Final Consent Order and agrees not to challenge the legal adequacy of the findings and conclusions in any potential future proceeding regarding this Final Consent Order. With the consent of the parties, the Board hereby enters the following:

FINDINGS OF FACT

1. Avita is a limited liability company organized on September 5, 2003, and existing under the laws of the State of Louisiana. Avita holds a pharmacy permit in the State of Louisiana and holds out-of-state pharmacy permits in Alabama, Colorado, Florida, Indiana, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, New Jersey, New Mexico, New York, Ohio, Oklahoma, Rhode Island, South Carolina, Texas, Tennessee, Virginia, Wisconsin, and Wyoming.

2. Avita applied to the Board for a permit to operate as an Out-of-State Pharmacy serving North Carolina patients. Avita's permit was signed and submitted by Dawn DePorter (“DePorter”), who is the Vice-President of Operations for Respondent and a licensed pharmacist

in Louisiana. Respondent's Out of State Pharmacy/Pharmacist Certification was signed and submitted by Keisha Rapp Taylor ("Taylor"), who acts as pharmacist-manager for Avita and is a licensed pharmacist in Louisiana.

3. Avita truthfully disclosed on its North Carolina permit application that one of its owners, Jerry Purcell ("Purcell"), had been arrested in Houston, Texas, on November 24, 2002, and charged with unlawful possession of a controlled substance. Purcell entered a plea of nolo contendere pursuant to a deferred adjudication agreement. Purcell successfully completed the terms of the deferred adjudication agreement, and the criminal case was dismissed on January 29, 2003.

4. On December 19, 2014, while seeking a pharmacy permit from the Oklahoma Board of Pharmacy, Avita entered into a Stipulation and Agreed Order with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control that prohibits Purcell from having any access to controlled substances. On October 1, 2015, Avita entered into an Agreed Order with the Texas State Board of Pharmacy reprimanding Avita in conjunction with Avita's filing a Change of Officer Form identifying Purcell as its chief executive officer and president.

5. Purcell is as an employee of Avita but does not have access to controlled substances stored at the pharmacy.

6. Avita's Pharmacist-Manager, Taylor, warrants her personal understanding that Purcell is to have no access to controlled substances and accepts responsibility for ensuring that no such access will, in fact, occur. Avita warrants that any and all successor pharmacist-managers will, so long as Avita maintains a North Carolina pharmacy permit, be specifically advised of this Consent Order and shall, in writing, accept responsibility to ensure that Purcell will have no access to controlled substances stored at the pharmacy.

7. Purcell has for many years held a Louisiana pharmacy technician registration. Although Purcell represents that he has not, in fact, practiced as a pharmacy technician at Avita, (or any other pharmacy) for a substantial period of time, as a show of good faith Purcell has surrendered his Louisiana pharmacy technician registration. Purcell agrees that he will not seek registration as a pharmacy technician in Louisiana, or any other jurisdiction, so long as Avita maintains a North Carolina pharmacy permit.

CONCLUSIONS OF LAW

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

1. The North Carolina Board of Pharmacy has jurisdiction over this matter and the authority to enter into this Consent Order.
2. Petitioner has met its burden under G.S. § 90-85.21 and 21 N.C.A.C. 46.1601 to demonstrate that it has meets the requirements to obtain a North Carolina out-of-state pharmacy permit, subject to the conditions below.

ORDER

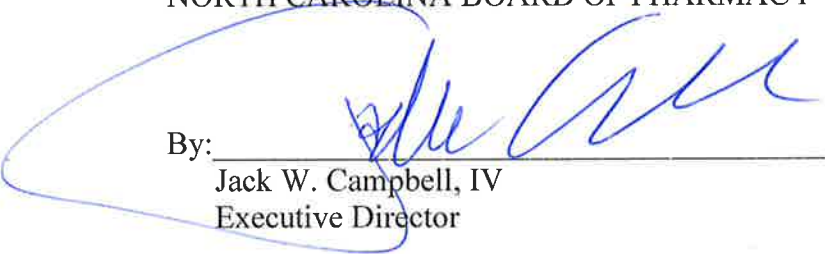
Based upon the foregoing, and with the consent of the parties, IT IS THEREFORE ORDERED that the permit application of Petitioner Avita Drugs, LLC is hereby GRANTED upon the following conditions:

1. Petitioner's permit is conditioned upon the accuracy of the information in its permit application, the information that it previously provided to the Board in connection with the review of the permit application, and Avita's prohibiting Purcell from accessing controlled substances.

2. Petitioner shall violate no laws governing the practice of pharmacy or the distribution of drugs, whether federal, North Carolina or the laws of any other state.
3. Petitioner shall violate no rules and regulations of the Board.
4. Petitioner shall cooperate with the Board, its attorneys, investigators and other representatives in any investigation and compliance with the provisions of this Consent Order.

This the 18th day of March 2016.

NORTH CAROLINA BOARD OF PHARMACY

By: 

Jack W. Campbell, IV
Executive Director

Avita Drugs, LLC has full knowledge that it has the right to a formal hearing, at which it would have the right to be represented at its expense by counsel, in this matter. The undersigned freely, knowingly and voluntarily waives such right by entering into this Final Consent Order. The undersigned understands and agrees that by entering into this Final Consent Order, it certifies that it has read the foregoing Final Consent Order and that it 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 it violate the terms and conditions of this Final Consent Order, the Board may take additional disciplinary action. The undersigned understands and agrees that this Final Consent Order will not become effective unless and until approved by the Board. The undersigned understands that it has the right to have counsel of its choice review and advise it with respect to its rights and this Final Consent Order, and represents that it enters this Final Consent Order after consultation with its counsel or after knowingly and voluntarily choosing not to consult with counsel.

The undersigned certifies that its agent executing this Final Consent Order is duly authorized to accept the Final Consent Order on behalf of Avita Drugs, LLC and to bind the permit holder.

ACCEPTED AND CONSENTED TO BY:

AVITA DRUGS, LLC
Keisha R Date 3/14/16

By: _____

Title: Pharmacist IN Charge

STATE OF North Carolina

Durham COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that personally appeared before me this day, and each acknowledged the due execution of the foregoing document: Keisha Taylor

[PRINT NAME OF INDIVIDUAL SIGNING]

Date: 3/14/2016



Cindy R. Parkham
Notary Public
Cindy R. Parkham

My commission expires: 3/14/16