

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

NORTH CAROLINA CVS PHARMACY,
LLC

(Permit No. 10878)

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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 June 20, 2016 and, after appropriate notice, was heard on that day by Board Member Carol Yates Day at the office of the Board. Respondent North Carolina CVS Pharmacy, LLC (hereinafter "Respondent" or "the Pharmacy") was present through multiple corporate representatives and represented by counsel, Erika Ross Gee. Counsel Clinton R. Pinyan represented the Board. Members of the Board's investigative staff and related respondents were also present at the Conference.

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. Respondent also stipulates that it waives its right to appeal this Consent Order or challenge in any way the sufficiency of the findings of this Order by its consent. Based upon the consent of the parties, the Board hereby enters the following:

FINDINGS OF FACT

1. The North Carolina Board of Pharmacy 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 North Carolina CVS Pharmacy, LLC, located at 3001 Fayetteville Road, Lumberton, North Carolina, is, and was at all relevant times referred to herein, the holder of Pharmacy Permit No. 10878. The Pharmacy and its employees are, and were at all relevant times, subject to the rules and regulations of the North Carolina Board of Pharmacy and the laws of the State of North Carolina.

3. On August 3, 2014, David Brian Mozingo (License No. 21356) became pharmacist-manager at the Pharmacy

4. Mozingo had been the subject of two prior Board orders restricting his service as pharmacist-manager. On July 15, 2014, Mozingo successfully petitioned the Board to lift his restrictions as pharmacist manager so that he could become the pharmacist-manager at the Pharmacy.

5. On December 29, 2014, Mozingo and the Pharmacy discovered diversion of zolpidem tablets, and a pharmacist subsequently admitted to diverting three (3) tablets on that date. On January 9, 2015, Mozingo and the Pharmacy discovered diversion of a bottle of 120 tablets of hydrocodone/APAP 7.5/325 mg from the Pharmacy. A Board investigator learned of the diversions during an unrelated inspection on February 9, 2015. However, Mozingo and the Pharmacy failed to submit reports of either loss to either the Board or the DEA until March 2, 2015, beyond the time for submitting such reports, and despite the Board investigator's warning to Mozingo and the Pharmacy about the required time for submitting reports.

6. An inspection conducted at the Pharmacy on February 9, 2015 revealed a number of significant organizational and recordkeeping problems. The Board required the Pharmacy and Mozingo to complete a corrective action plan, and Board investigators informed the Pharmacy and Mozingo that they would reinspect the Pharmacy. On April 23, 2015, Board investigators

reinspected the Pharmacy and found that virtually all of the violations found on February 9, 2015 were still present on April 23, 2015.

CONCLUSIONS 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 and conclusions of law above, constitutes grounds for discipline pursuant to North Carolina General Statutes § 90-85.38(b) because Respondent's acts were in violation of North Carolina General Statutes §§ 90-85.23, 90-85.25(b), 90-640(b), 106-122, 106-134 and 106-134.1; 21 N.C.A.C. 46 .1601(a)(5), 46 .1804(a), 46 .2502(a), (c), (d), (e) and (k), 46 .2801, and 46 .3001; 21 U.S.C. §§ 351 and 352; and 21 C.F.R., 201.17, 201.18, 1301.75, 1304.04, 1304.11, and 1306.22.

3. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on its permit under North Carolina General Statutes § 90-85.38(b).

CONCLUSIONS REGARDING DISCIPLINE


Based upon the foregoing Findings of Fact and Conclusions of Law, and with the consent of the Respondent, IT IS THEREFORE ORDERED that:

1. The permit of Respondent North Carolina CVS Pharmacy, LLC (Permit No. 10878) is hereby REPRIMANDED.

This the 9th day of September, 2016.

NORTH CAROLINA BOARD OF PHARMACY

By:



Jack W. Campbell, IV
Executive Director

North Carolina CVS Pharmacy, LLC, the holder of permit number 10878, 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 Consent Order.

The undersigned understands and agrees that by entering into this Consent Order, it certifies that it has read the foregoing 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 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 it has the right to have counsel of its choice review and advise it with respect to its rights and this Consent Order, and represents that it enters this 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 Consent Order is duly authorized to accept the Consent Order on behalf of North Carolina CVS Pharmacy, LLC and to bind the permit holder.

ACCEPTED AND CONSENTED TO BY:

NORTH CAROLINA CVS PHARMACY, LLC
(Permit No. 10878)

_____ Date 8/18/16
By: Jalynn Patel

Title: Pharmacist-Manager

STATE OF NC

New Hanover COUNTY

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

Date: 8-18-16

Viraj Parikh
Notary Public
Viraj Parikh

Viraj Parikh
Notary Public
New Hanover County, NC
My Commission Expires 4/20/2019

My commission expires: 4-20-2019

REJECTED BY:

NORTH CAROLINA CVS PHARMACY, LLC
(Permit No. 10878)

_____ Date _____

By: _____

Title: Pharmacist-Manager