

- (7) Failed to comply with any provision of this Article or rules adopted by the Board.”

The Notice set forth specific factual allegations and scheduled a hearing for March 21, 2006. The hearing was conducted at the Board office before Board members Dennis, Crocker, Nelson and Haywood. At the hearing, the Board presented evidence in the form of testimony and exhibits; Respondents Godwin and Medicine Center Pharmacy presented evidence in the form of testimony. Respondent Page was not present. Having heard the testimony presented, considered the exhibits offered, and judged the credibility of the testifying witnesses, the Board makes the following:

FINDINGS OF FACT

1. At all relevant times, Respondent Technician was registered by the Board and was the holder of technician registration number 1881. At all relevant times, Respondent Pharmacist was licensed to practice pharmacy and was the holder of license number 7024. At all relevant times, Respondent Pharmacist was employed as the Pharmacist Manager at Respondent Pharmacy, permit number 4161, located at 1402 W. Cumberland St., Dunn, North Carolina. Respondent Pharmacist and his wife each own 50% of Respondent Pharmacy.

2. On or about March 4, 2005, the Board office in Newton, North Carolina received information regarding Respondent Technician's diversion of hydrocodone products from Respondent Pharmacy.

3. Based upon the information received, Board Investigator Josh Kohler commenced an investigation.

4. On or about March 9, 2005, Investigator Kohler interviewed Respondent Technician. Respondent Technician admitted to diverting controlled substances from Respondent Pharmacy. Respondent Technician admitted that approximately 1½ years prior to

the interview, she began diverting hydrocodone 7.5/750 mg and 10/650 mg. Respondent Technician admitted to her personal use of the hydrocodone and also to providing other people with the hydrocodone. Hydrocodone is a Schedule III controlled substance.

5. During the March 9, 2005 interview, Respondent Technician also admitted to diverting Endocet 5/325 mg and Oxycodone 5/325 mg. Endocet and Oxycodone are Schedule II controlled substances.

6. During the March 9, 2005 interview, Respondent Technician stated that in November 2004, another pharmacy technician, Shannon Shultz, saw Endocet units in Respondent Technician's smock and informed Respondent Pharmacist of her observations. Respondent Pharmacist confronted Respondent Technician and confiscated the medicine she had in her possession. At the time Respondent Pharmacist confronted Respondent Technician, he did not take any action against her. Respondent Technician stated that after the confrontation, she continued to divert medications from Respondent Pharmacy.

7. Respondent Technician admitted that as of March 4, 2005, she was consuming approximately 15-20 dosage units of controlled substances each day. Respondent Technician subsequently surrendered her registration to the Board. On March 14, 2005, Respondent Technician began substance abuse treatment at Hope Valley Treatment Center.

8. On or about March 9, 2005, Investigator Kohler interviewed Respondent Pharmacist. Respondent Pharmacist stated that he had no prior knowledge that Respondent Technician was regularly diverting medication from Respondent Pharmacy; he stated that he thought the November 2004 incident was a one-time occurrence. Respondent Pharmacist stated that though he personally orders the Schedule II medications, he noticed no increases in the amounts ordered that would lead to suspicion. Respondent Pharmacist stated that the pharmacy

technicians are responsible for ordering the Schedule III, IV and V drugs, legend drugs, and over-the-counter products. Respondent Pharmacist stated that the technicians are responsible for checking all delivery orders of medication, including orders of Schedule II medication.

9. Respondent Pharmacist acknowledged that another technician, Shannon Shultz, reported Respondent Technician's diversion activity in November of 2004. Respondent Pharmacist stated that he instructed Respondent Technician to return the medications she had in her possession. Respondent Pharmacist stated that he did not complete a DEA-106 because he thought the theft was a one-time occurrence.

10. Respondent Pharmacist stated that on March 4, 2005, he checked the hydrocodone 7.5/750 mg inventory which revealed a high shortage. He confronted Respondent Technician who admitted to diverting hydrocodone.

11. On or about March 9, 2005, Investigator Kohler interviewed Technician Shultz. Ms. Shultz confirmed that she reported Respondent Technician's conduct to Respondent Pharmacist in November of 2004.

12. On or about March 9, 2005, Investigator Kohler performed an audit of the medications listed below covering the time period of November 18, 2003 through March 9, 2005. The audit revealed the following shortages:

<u>Medication</u>	<u>Loss</u>
Endocet 5/325 mg	14,684
Oxycodone 5/325 mg	17,678
Hydrocodone 7.5/750 mg	5,903
Hydrocodone 10/650 mg	<u>15,868</u>

Total Loss: 54,133

13. After the Investigator presented Respondent Pharmacist with the results of the audit, Respondent Pharmacist did not advise the investigator of any immediate plans to change

his procedures for medication audits, drug order reviews, or implementation of a Schedule II perpetual inventory log.

14. On or about March 2, 2006, Board Investigator Krystal Brashears traveled to Respondent Pharmacy for the purpose of interviewing Respondent Pharmacist to determine whether he had implemented additional measures of inventory control and pharmacy security since Investigator Kohler interviewed him in March of 2005.

15. During the interview with Investigator Brashears, Respondent Pharmacist stated that he still did not conduct regular audits of the controlled substance stock, he did not maintain a perpetual inventory of schedule II controlled substances, and he audits schedule II controlled substances only once every two years. Additionally, Respondent Pharmacist stated that technicians are still responsible for ordering schedule III-V controlled substances and stocking all prescription medications, including schedule II controlled substances, on the shelves.

16. During the interview with Investigator Brashears, Respondent Pharmacist stated that he had security cameras in his pharmacy but did not check the camera tapes. Respondent Pharmacist also told Investigator Brashears that the cameras were in place during the time in which Respondent Page was diverting controlled substances.

CONCLUSIONS OF LAW

17. Respondent Technician violated the following statutes and rules when she diverted controlled substances:

- a. G.S §90-85.15A(d)(5);
- b. G.S. §90-85.40;
- c. G.S. §90-106(f);
- d. 21 N.C.A.C. 46 .1805; and

e. 21 U.S.C. §§829 and 842

18. Respondent Pharmacist violated the following statutes and rules when he failed to comply with the requirements of Pharmacist Managers and failed to properly monitor controlled substances:

a. G.S. §90-85.38(a)(6), and (7);

b. G.S. §90-85.40;

c. G.S. §90-106(f);

d. G.S. §90-108;

e. 21 N.C.A.C. 46 .1805;

f. 21 N.C.A.C. 46 .2502; and

g. 21 U.S.C. §§829 and 842.

19. Respondent Pharmacy violated the following statutes and rules when its Pharmacist Manager failed to comply with the regulatory regulations for Pharmacist Managers and failed to properly monitor controlled substances:

a. G.S. §90-85.38(a)(6), and (7);

b. G.S. §90-85.40;

c. G.S. §90-106(f);

d. G.S. §90-108;

e. 21 N.C.A.C. 46 .1805;

f. 21 N.C.A.C. 46 .2502; and

g. 21 U.S.C. §§829 and 842.

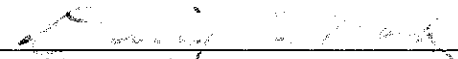
IT IS THEREFORE, ORDERED that:

1. The Registration of Respondent Donna Page, technician registration no. 1881, is hereby revoked.
2. The license of Respondent Prescott Godwin, pharmacist license no. 7024, is hereby suspended for sixty (60) days. This sixty (60) days suspension is stayed for five (5) years upon the following conditions:
 - a. Respondent Pharmacist's license is actively suspended for five (5) consecutive days. The five (5) day suspension shall take place no later than sixty (60) days after Respondent Pharmacist's receipt of this Order. No less than ten (10) days prior to the commencement of the five (5) day suspension period, Respondent Pharmacist shall notify the Executive Director in writing of the five (5) day period in which he will serve the active suspension;
 - b. Within ninety (90) days of Respondent Pharmacist's receipt of this Order, he shall take and pass the MPJE Examination administered by NABP. Within ten (10) days after Respondent Pharmacist is notified that he passed the MPJE Examination, he shall notify the Executive Director in writing; and
 - c. Respondent Pharmacist shall conduct bimonthly inventories for schedule II-V controlled substances.
3. The permit of Respondent Medicine Center Pharmacy, pharmacy permit no. 4161, shall be suspended for five (5) years. The suspension is stayed for five (5) years, subject to the following conditions:
 - a. Respondent Pharmacy shall comply with unannounced inspections and review of inventory and recordkeeping by Board staff;

- b. Respondent Pharmacy shall develop written polices and procedures to ensure security and accountability of the controlled substance inventory. Respondent Pharmacy shall also develop written policies and procedures regarding inventory recordkeeping and shall implement all polices and procedures. Respondent Pharmacy shall inform and train all Pharmacy personnel regarding these policies and procedures, and within sixty (60) days of receipt of this Order, Respondent Pharmacy shall submit the following to the Board's Executive Director:
- i. Copies of the polices and procedures described above; and
 - ii. Documentation that all pharmacy personnel have been informed of and trained on the polices and procedures described above.
4. Respondent Pharmacist shall advise the Board promptly in writing of any change of address or change in practice status;
 5. Respondent Pharmacist shall not serve as a preceptor of pharmacy students;
 6. If Respondent Pharmacist or Respondent Pharmacy fails to comply with any terms or conditions of this Order, the period of stay described above shall be lifted and Respondents may be subject to additional disciplinary action by the Board;
 7. Respondents shall violate no laws governing the practice of pharmacy or the distribution of drugs; and
 8. Respondents shall violate no rules and regulations of the Board.

This the 23 day of March, 2009.

NORTH CAROLINA BOARD OF PHARMACY

By: 

David R. Work
Executive Director