

**STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY**

IN THE MATTER OF)
)
SELWYN KEITH AGENT) **ORDER REVOKING LICENSE**
License Number 18117)

This matter came on for consideration by the North Carolina Board of Pharmacy (the "Board") at its meeting of February 19, 2008. After appropriate notice, this matter was heard at the office of the Board by Board members J. Parker Chesson, Jr.; Rebecca W. Chater; Betty H. Dennis; L. Stan Haywood; Robert McLaughlin, Jr.; and Wallace E. Nelson. Respondent Selwyn Keith Agent was present at the hearing and represented by counsel, Stephen Petersen of Smith Moore, LLP. The Board Staff was represented by counsel K. Abigail Soles and Clinton R. Pinyan.

After considering the evidence presented by the Board Staff and Respondent, the Board hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On January 31, 2006, Respondent completed the "NABP Official Application for Transfer of Pharmaceutic Licensure to the State of North Carolina" (the "Application") in connection with his application for reciprocal licensure in North Carolina. In the Application, Respondent indicated that he was currently licensed to practice pharmacy in California, Florida and Mississippi.

2. Question Number Five of the Professional History section of the Application asks, "Are you presently or have you within the past five years participated in a chemical substance rehabilitation program?" Respondent answered "No" to Question Number Five.

3. On March 14, 2006, Respondent completed a document entitled "Questions Asked to Reciprocity Candidates by the North Carolina Board of Pharmacy" (the "Reciprocity Questionnaire") in connection with his application for reciprocal licensure in North Carolina.

4. Question Number Two of the Reciprocity Questionnaire asks, "Have you ever[] been or are you now addicted to the use of alcoholic, hallucinogenic, narcotic or central nervous system stimulant or depressant drugs to any extent?" Respondent answered Question Number Five by checking the box marked "No."

5. Question Number Five of the Reciprocity Questionnaire asks, "Do you have pending or have you ever had brought before any Board of Pharmacy by which you are licensed any proceeding or action which could affect your right or privilege to practice pharmacy?" Respondent answered Question Number Five by checking the box marked "No."

6. The Board accepted Respondent's application for reciprocal licensure on March 23, 2006. As a result, Respondent was granted License No. 18117 entitling him to practice pharmacy in North Carolina until December 31, 2006, at which time Respondent could apply to renew License No. 18117.

7. Respondent did not disclose the following material facts to Board at the time that it accepted Respondent's application for reciprocal licensure: On December 15, 2004, Respondent consumed alcohol while on duty as a pharmacist at Paradise Valley Hospital in National City, California. On January 20, 2005, Respondent undertook treatment in the McDonald Center Intensive Outpatient Alcohol and Drug Rehabilitation Program at Scripps Memorial Hospital in San Diego, California, which treatment he completed on March 8, 2005. On February 22, 2006, the California Board of Pharmacy initiated disciplinary proceedings

against Respondent as a result of the incident at Paradise Valley Hospital. Respondent was served with the Accusation initiating these proceedings on March 3, 2006.

8. As a result of the California disciplinary proceedings, Respondent voluntarily surrendered his license to practice pharmacy in California on October 24, 2006. The California Board of Pharmacy adopted Respondent's voluntary surrender of his license effective October 5, 2007.

9. Respondent answered Question Number Five of the Professional History section of the Application dated January 31, 2006 falsely when he indicated that he had not participated in a chemical substance rehabilitation program within the previous five years. In fact, Respondent participated in a chemical substance rehabilitation program less than a year before completing the Application when he attended the McDonald Center Intensive Outpatient Alcohol and Drug Rehabilitation Program at Scripps Memorial Hospital from January 20, 2005 to March 8, 2005.

10. Respondent testified that, when he completed the Application, he believed that Question Number Five did not encompass treatment for alcohol abuse. The Board finds that Respondent's explanation to be not credible or, at a minimum, an unreasonable reading of Question Number Five. Respondent's abuse of alcohol was a material fact that the Board needed to know in order to properly evaluate Respondent's Application. At the hearing of this matter, Respondent acknowledged that the abuse of alcohol presents many of the same problems in the practice of pharmacy as are presented by the abuse of other substances.

11. Respondent answered Question Number Two of the Reciprocity Questionnaire dated March 14, 2006 falsely when he indicated that he was not and had not ever been addicted to the use of alcoholic, hallucinogenic, narcotic or central nervous system stimulant or depressant

drugs. At the hearing of this matter, Respondent acknowledged that, as of March 14, 2006, he had been addicted to the use of alcohol and acknowledged that he intentionally provided a false answer to Question Number Two and withheld material information because he believed that providing a correct answer could result in the denial of his application.

12. Respondent answered Question Number Five of the Reciprocity Questionnaire dated March 14, 2006 falsely when he indicated that he did not have pending and had not ever been brought before any Board of Pharmacy by which he was licensed for any proceeding or action which could affect his right or privilege to practice pharmacy. In fact, on March 3, 2006 - - less than two weeks before completing the Reciprocity Questionnaire -- Respondent had been served with a copy of the Accusation initiating a disciplinary proceeding by the California Board of Pharmacy.

13. Respondent testified that, when he completed the Reciprocity Questionnaire, he believed that Question Number Five did not ask for the disclosure of the California proceeding because Respondent had not yet had the opportunity to respond to the Accusations and "present his side of the story." The Board finds that Respondent's explanation to be not credible or, at a minimum, an unreasonable reading of Question Number Five. The Accusation initiated proceedings against Respondent, and those proceedings were pending at the time Respondent completed the Reciprocity Questionnaire.

CONCLUSIONS OF LAW

The evidence demonstrates and the Board finds and concludes that Respondent made false representations and/or withheld material information in connection with securing License Number 18117, in violation of North Carolina General Statutes § 90-85.38(a)(1).

IT IS THEREFORE ORDERED that Respondent's license to practice pharmacy in North Carolina be, and hereby is, **REVOKED**. Respondent shall lose all rights and privileges as a Pharmacist in North Carolina effective on the date of this Order. Within five (5) days of the date of this Order, Respondent shall surrender his license and wallet card to the Board.

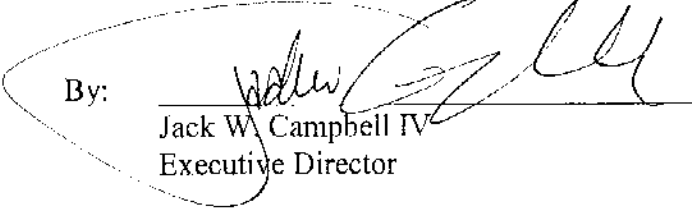
Respondent may not apply for a new license to practice pharmacy in North Carolina until at least six (6) months following the date of this Order. If Respondent ever applies for licensure or petitions for reinstatement, the Board will treat it as a new application for licensure, and Respondent must comply with all of the laws, regulations and procedures for licensure in effect at the time of the application. The decision on any future application for licensure will be in the Board's discretion, and the Board will consider this Order as a prior disciplinary action against Respondent in deciding on any future application. This Order makes no promise or other guarantee, express or implied, that any future application for licensure from Respondent will be approved. Any hearing on any application for a new license will be held at a time and date to be set in the Board's sole discretion. Before any future application will be considered, Respondent shall meet the following additional conditions:

- a. Respondent must undergo an assessment by the North Carolina Pharmacist Recovery Network ("NC PRN") and comply with any and all recommendations of a NC PRN counselor; and
- b. Respondent must successfully complete an ethics training course chosen with the approval of the Executive Director of the Board.

This the 27th day of February, 2008.

NORTH CAROLINA BOARD OF PHARMACY

By:



Jack W. Campbell IV
Executive Director

CERTIFICATE OF SERVICE

I certify that on February 27th, 2008, I caused of copy of this **Order Revoking License** to be served on Counsel for Respondent via registered mail, return-receipt requested at the following address:

Stephen Petersen
Smith Moore LLP
2800 Two Hannover Square
Raleigh, North Carolina 27601

This the 27th day of February, 2008.



Jack W. Campbell IV