

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF)
)
TONYA BELL-PRINCE) **FINAL ORDER**
License Number 11705)
)

THIS MATTER came on to be heard before the North Carolina Board of Pharmacy (the "Board") on July 15, 2008 and October 21, 2008 pursuant to Amended Notices of Hearing, dated June 12, 2008 and September 23, 2008, and was heard by Board President L. Stan Haywood and Board Members Dr. J. Parker Chesson, Jr., Dr. Betty H. Dennis, Robert McLaughlin, Jr. and Wallace E. Nelson, at the offices of the North Carolina Board of Pharmacy. Respondent Bell-Prince was present at the conference and was represented by counsel. The Board heard testimony of Respondent Bell-Prince, Thomas B. Eschen, Robert D. Lesslie, Maria Howard, Ellie Rothmel, Paul Peterson, and Executive Director Jack W. Campbell, IV and received stipulations and exhibits offered by the parties. Considering the testimony, evidence and the arguments of counsel, the Board hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. From July 1992 through the present, Respondent Tonya Bell-Prince ("Respondent") has been the holder of North Carolina Board of Pharmacy License Number 11705.
2. Respondent is and was, at all relevant times referenced herein, subject to the rules and regulations of the North Carolina Board of Pharmacy and the laws of the State of North Carolina.

3. Between approximately December 2003 and March 2004, Respondent dispensed refills of Ambien to herself, when no refills were authorized during that time period by any valid prescription. In addition, during that approximate time period, Respondent diverted approximately 60 dosage units of Ambien from her employer.

4. After these incidents occurred, in April 2004, Respondent entered into a substance abuse program administered by the North Carolina Pharmacist Recovery Network ("PRN"). At that time, she entered into a contract governing the terms of her participation in the program.

5. On August 30, 2004, Respondent was terminated from the PRN program. The stated basis for PRN's termination of Respondent from the program was a lack of cooperation by Ms. Bell-Prince. Respondent was subsequently reinstated into the PRN program.

6. On January 17, 2006, the Board accepted a consent order imposing discipline related to the unauthorized dispensing and diversion of Ambien. That consent order issued a formal warning to Respondent and imposed certain conditions on her license to practice pharmacy.

7. Between approximately November 2005 and June 2006, Respondent violated the terms of her contract with PRN in various ways, including by submitting a dilute urine sample, failing to report for a drug test, and failing to call in to determine if she should be drug tested.

8. On July 3, 2006, Respondent's participation in the PRN program was terminated again.

9. On November 21, 2006, the Board accepted another consent order imposing discipline related to Respondent's violation of the terms of her PRN contract and her suspected impairment to safely practice pharmacy. This consent order is referred to as the "November 2006 Consent Order."

10. The November 2006 Consent Order required Respondent to be evaluated by a treatment facility. The November 2006 Consent Order required, "If in-patient treatment is recommended, Respondent Pharmacist shall comply with the recommendation." This was a material term of the November 2006 Consent Order.

11. The November 2006 Consent Order also required Respondent to enter a new five-year PRN contract. The November 2006 Consent Order required that "Respondent shall maintain compliance with her PRN contract." This was a material term of the November 2006 Consent Order.

12. The November 2006 Consent Order further provided, "If Respondent Pharmacist fails to comply with any terms or conditions of this Consent Order, Respondent Pharmacist may be subject to additional disciplinary action by the Board." This was a material term of the November 2006 Consent Order.

13. Respondent participated in an evaluation by Pavillon International. On December 8, 2006, Pavillon International issued an assessment arising from Respondent's evaluation. Pavillon International was unable to recommend that Respondent was safe to return to work at that time and recommended, among other things, in-patient treatment.

14. On December 21, 2006, Respondent reported to in-patient treatment with the Professional Enhancement Program at Pine Grove Behavioral Health & Addiction Services ("PEP").

15. PEP recommended a treatment plan for Respondent. That treatment plan required that there would be zero tolerance for violations of the plan and that "[a]ny question of material noncompliance such as dilute urine screens and/or missed calls will be reported to the North Carolina Pharmacy Board for immediate action." That treatment plan further required

Respondent to return to PEP for a two-week evaluation on or about June 25, 2007. PEP's prognosis for Respondent was merely "fair."

16. On March 6, 2007, following her in-patient treatment, Respondent entered a new five-year contract with PRN pursuant to the requirements of the November 2006 Consent Order. In this contract ("PRN Contract"), Respondent agreed that there would be "[z]ero tolerance for all non-compliance" with the terms of her treatment plan. The PRN Contract further required random testing to confirm abstinence from drugs.

17. On March 20, 2007, June 4, 2007, and June 15, 2007, Respondent submitted drug screen urine samples that were determined to be "dilute" by the physician submitting reports of such drug tests, and were categorized by both the physician and PRN as "failed" drug screens.

18. Testimony and evidence was presented regarding the drugs screens that Respondent contended indicated that the drugs screens may not have been determined to be "dilute" and thus "failed" according to some standards. Testimony and evidence was also presented that the drug screens were considered "dilute" or "failed" by the standards of the North Carolina Pharmacist Recovery Network. The Board finds that the greater weight of the evidence indicated that the drug screens were appropriately considered "dilute" or as "failed" drug screens by the North Carolina Pharmacist Recovery Network and its agents.

19. Respondent did not participate in the two-week evaluation at PEP required by her treatment plan to occur on or about June 25, 2007.

20. As a result of Respondent's failures to comply with both her treatment plan and her PRN Contract, on August 23, 2007, PRN terminated Respondent's PRN Contract.

21. Respondent did not participate in any further evaluation by PEP, and did not participate in any in-patient evaluation until February 24, 2008 as set forth below.

22. Respondent presented testimony and evidence that she contended indicated that she was prevented by PRN or Board staff or her therapists or others or by her financial and family and personal circumstances from timely undertaking the additional evaluation required by the terms of the November 2006 Consent Order and the PEP treatment plan. Testimony and evidence was also presented that Respondent knowingly, intentionally and willfully failed to timely undertake the additional evaluation required by the terms of the November 2006 Consent Order and the PEP treatment plan. The Board finds that Respondent's testimony on this matter is not credible and that the greater weight of the evidence indicated that Respondent knowingly, intentionally and willfully failed to timely undertake the additional evaluation required by the terms of the November 2006 Consent Order and the PEP treatment plan.

23. On February 24, 2008, Respondent was admitted to and commenced an in-patient 96-Hour Evaluation at the Ridgeview Institute in Smyrna, Georgia ("Ridgeview") that concluded on February 28, 2008.

24. Ridgeview recommended a treatment plan, which included requirements that: (1) Respondent not work as a pharmacist until "she is able to demonstrate and document abstinence for at least a two-month period of time" and that this abstinence be documented via PRN oversight; (2) Respondent enter into another "zero tolerance" contract with PRN for a period of three years during which any non-compliance would result in an immediate request that she stop work as a pharmacist; (3) Respondent engage in specific individual and group therapies, including a relapse prevention program; and (4) Respondent continue in medication management with a qualified psychiatrist or addictionologist.

25. Respondent was not accepted by PRN to enter into a new contract or as a participant in its program.

CONCLUSIONS OF LAW

1. Respondent has violated the terms of her November 2006 Consent Order with the Board.

2. The November 2006 Consent Order explicitly provides that the violation of the Consent Order may subject Respondent to additional discipline by the Board. In addition, separate and apart from the terms of the November 2006 Consent Order, the Board has the statutory authority to discipline pharmacists who violate the terms of the Board's Consent Orders.

3. The evidence demonstrates that Respondent violated one or more of the following statutes, rules and decisional authority:

- a. North Carolina General Statutes § 90-85.38(a)(6);
- b. North Carolina General Statutes § 90-85.38(a)(7); and
- c. The Consent Order of November 21, 2006.

4. Considering all of the facts and circumstances of this matter, the Board finds and concludes that the additional discipline set forth in this Final Order is appropriate. In this case, the Board has considered as an aggravating factor Respondent's history, including: (1) Respondent's prior violation of her prior January 2006 Consent Order; (2) Respondent's repeated noncompliance with a series of PRN contracts; and (3) the fact that, as a result of Respondent's dilute drug screens under an earlier PRN contract that led to the November 2006 Consent Order, Respondent was aware that dilute drug screens would violate her PRN contract and thereby lead to a violation of the November 2006 Consent Order.

WHEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that the request for discipline is hereby GRANTED, and Respondent is hereby disciplined as follows:

1. Respondent's license to practice to pharmacy is hereby actively suspended for an indefinite duration. Respondent shall immediately surrender her license to the Executive Director of the Board of Pharmacy and shall not engage in the practice of pharmacy.

2. The North Carolina Board of Pharmacy may consider a request for reinstatement by Respondent of her license to practice pharmacy. The Board's determination of the reinstatement request will be based on all of the facts and circumstances presented at that time; however, any such request must include evidence of at least the following:

a. Respondent's entrance into and full compliance with a formal "zero tolerance" contract for long-term after care and substance abuse and counseling monitoring, which contract shall be for a minimum of 5 years and with an organization approved by the Executive Director of the North Carolina Board of Pharmacy;

b. Respondent's demonstration and documentation of abstinence from substance abuse for a period of at least six (6) months from the date a new long-term aftercare substance abuse and counseling monitoring agreement is entered into and approved by the Executive Director of the North Carolina Board of Pharmacy;

c. Documentation of Respondent's participation in group and individual therapy for dual diagnoses with a focus on maladaptive patterns of coping. This therapy must be with a person skilled and licensed to deal with maladaptive patterns of coping such as personality disorders, and shall be approved by the monitoring organization described in subparagraph (a) above; and

d. Documentation of Respondent's participation in a group program for relapse prevention with a state-licensed substance abuse program.

3. Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation.

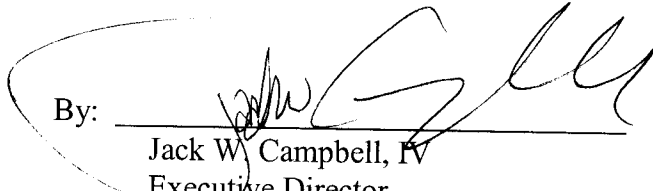
4. If Respondent fails to comply with any of the terms or conditions of this Final Order, she may be subject to additional disciplinary action by the Board.

That is the order of the Board of Pharmacy.

This, the 6th day of November, 2008.

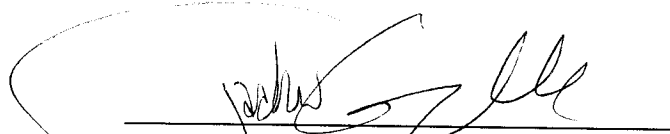
NORTH CAROLINA BOARD OF PHARMACY

By: _____


Jack W. Campbell, IV
Executive Director

CERTIFICATE OF SERVICE

I certify that on November 7, 2008 I caused a copy of this Final Order to be served on Tonya Bell-Prince by registered mail, return-receipt requested



Jack W. Campbell IV
Executive Director