

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

IN THE MATTER OF)	
)	CONSENT ORDER
JEFFREY DWAYNE WHITLEY)	REINSTATING LICENSE
(Pharmacist License #10168))	WITH CONDITIONS
)	
_____)	

THIS MATTER came to be considered at a prehearing conference (hereinafter, "Conference") before a member of the North Carolina Board of Pharmacy (hereinafter, the "Board") pursuant to 21 N.C.A.C. 46.2008. The Conference was scheduled for January 16, 2017 and, after appropriate notice, was heard on that day by Board member William A. Mixon at the offices of the Board. Petitioner Jeffrey Dwayne Whitley (hereinafter, "Petitioner") was present at the Conference. The Board's Executive Director, Jay Campbell, represented the Board.

Petitioner 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. By his consent, Petitioner also stipulates that he waives his right to appeal this Consent Order or challenge in any way the sufficiency of the findings of this Order as a basis for the action taken. Based upon the consent of the parties, the Board hereby enters the following:

FINDINGS OF FACT

1. Petitioner formerly held North Carolina license to practice pharmacy number 10168.
2. On March 27, 2015, Board staff received a drug disaster and loss report indicating that Petitioner was terminated from his then-place of practice for diverting clonazepam (a Schedule IV controlled substance) for personal use. Petitioner's

physician was treating Petitioner with clonazepam. Petitioner accomplished his diversion by adding unauthorized refills to his clonazepam prescriptions, adding additional clonazepam tablets to his dispensed prescriptions, and, in at least one instance, creating a fraudulent prescription for clonazepam.

3. Petitioner admitted to the diversion. On June 8, 2015, Petitioner voluntarily surrendered his license to practice pharmacy.
4. Petitioner was charged criminally as a result of his diversion. Petitioner entered into a one-year deferred prosecution agreement and, after compliance with the terms of that deferred prosecution agreement, all charges against him were dismissed in November 2016.
5. In May 2016, Petitioner inquired about potential reinstatement of licensure. Board staff suggested that he contact North Carolina Physicians Health Program (“NCPHP”) for a review of court-ordered substance use assessment and monitoring, as well as a clinical assessment.
6. On June 27, 2016, Petitioner was evaluated by NCPHP staff, which recommended a one-year monitoring contract to substantiate abstinence and monitor treatment. Petitioner did so.
7. NCPHP reports that Petitioner has complied with all aspects of his monitoring contract, including random screening and counseling.
8. NCPHP advocates for Petitioner’s return to the practice of pharmacy, with appropriate conditions.

CONCLUSIONS OF LAW

The Board, in its discretion, concludes that Petitioner can safely resume the practice of pharmacy under the conditions stated below.

IT IS THEREFORE ORDERED that Petitioner's license to practice pharmacy is **REINSTATED, SUBJECT TO THE FOLLOWING CONDITIONS:**

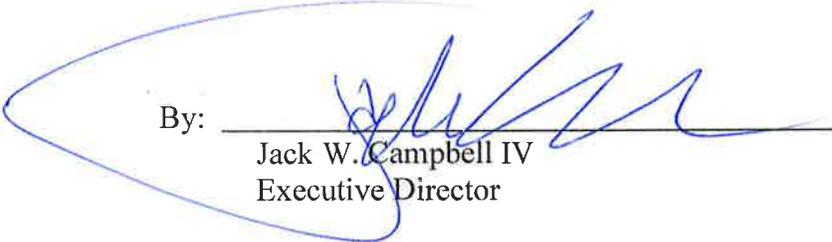
1. Petitioner shall complete an Application to Reinstate a Lapsed or Inactive License and pay the appropriate fee.
2. As part of the Application to Reinstate a Lapsed or Inactive License, Petitioner shall provide proof that he has obtained thirty (30) hours of continuing education, sixteen (16) of which must be live or contact hours. These hours represent the continuing education obligation Petitioner would have been required to meet to renew his pharmacy license for 2016 and 2017.
3. Petitioner shall successfully his NCPHP treatment and monitoring agreement.
4. For the duration of his NCPHP treatment and monitoring agreement, Petitioner shall obtain prior approval of all employment as a pharmacist from NCPHP.
5. For the duration of his NCPHP treatment and monitoring agreement, Petitioner may not be employed as a pharmacist more a number of hours per week approved by NCHPH as clinically consistent with Petitioner's recovery.

6. For the duration of his NCPHP treatment and monitoring agreement, Petitioner may not serve as a pharmacist-manager unless NCPHP finds such service clinically consistent with Petitioner's recovery and notifies the Board's Executive Director of that finding.
7. Petitioner shall be subject to unannounced drug screens to be performed at his expense by the Board or its agents, and shall supply urine, blood, hair, nail or any other bodily fluid or tissue sample required for the screening. Results of the screening shall not disclose the presence of any controlled substance, prescription drug, or alcohol that was not previous prescribed for Petitioner by a practitioner acting in the normal course of medical treatment of Petitioner.
8. Petitioner shall authorize NCPHP and any treating physician or other health care provider to release Petitioner's medical records to the Board.
9. Petitioner shall violate no laws governing the practice of pharmacy or the distribution of drugs.
10. Petitioner shall violate no rules or regulations of the Board.
14. If Petitioner fails to comply with any term or condition of this Order, Petitioner may be subject to additional disciplinary action by the Board.

This is the 17th day of January, 2017

NORTH CAROLINA BOARD OF PHARMACY

By: _____


Jack W. Campbell IV
Executive Director

Jeffrey Dwayne Whitley has full knowledge that he has the right to a formal hearing, at which he would have the right to be represented at his 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, he certifies that he has read the foregoing Consent Order and that he 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 he violate the terms and conditions of this Consent Order, the Board may take additional 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 he has the right to have counsel of his choice review and advise him with respect to his rights and this Consent Order, and represents that he enters this Consent Order after consultation with his counsel or after knowingly and voluntarily choosing not to consult with counsel.

CONSENTED TO BY:

Jeffrey Dwayne Whitley Date 12-30-16
Jeffrey Dwayne Whitley

STATE OF NC
Cabarrus COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that the following person(s) personally appeared before me this day, and each acknowledged the due execution of the foregoing document: Jeffrey Dwayne Whitley

Date: December 30, 2016

Rebecca Setser
Notary Public

My commission expires: December 11, 2017

