

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of: )

NORTH CAROLINA CVS )  
PHARMACY, LLC )  
(Permit No. 10711) )

**CONSENT ORDER OF  
DISCIPLINE**

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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 September 16, 2013 and, after appropriate notice, was heard on that day by Board member Gene Minton at the offices the Board. Representatives of Respondent North Carolina CVS Pharmacy, LLC (Permit No. 10711) (hereinafter, "Respondent" or "CVS") were present, and Respondent was represented by Counsel Brenda Maloney Shafer. Counsel Tanisha Palvia represented the Board. Members of the Board's investigative staff 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. By its consent, 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. 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 is, and was at all relevant times referred to herein, a pharmacy located at 5680 NC 42 Highway West, Garner, North Carolina 27529, and permitted by permit number 10711. Respondent is and was, at all relevant times referenced to herein, subject to the rules and regulations of the North Carolina Board of Pharmacy and the laws of the State of North Carolina.

3. On three occasions on January 12, 2011 and January 13, 2011, Respondent's pharmacists unlawfully and negligently refilled a patient's prescription for Alprazolam 2 mg (a Schedule IV controlled substance) sooner than permitted by the prescription and in significant excess of normal therapeutic use. More specifically, Respondent refilled the prescription on January 12, 2011, ten days sooner than permitted by the prescription. Respondent then refilled the prescription again twice on the following day.

4. On February 1, 2011, Board investigators performed an inspection of the pharmacy and found the following violations by Respondent: (1) the pharmacy, the compounding room, the equipment, and the utensils were kept in an unsanitary and disorganized condition that posed a threat to the public health, safety, and welfare; and (2) a compounding log that did not have all of the information required by law was maintained.

5. When the pharmacy was reinspected on December 20, 2012, Board investigators found that Respondent was still keeping the compounding room, equipment, and utensils in an unsanitary and disorganized condition that posed a threat to the public health, safety, and welfare.

6. Respondent has previously received a letter of caution in 2004 and a letter of reprimand in 2002 regarding dispensing error cases. In 2008, Respondent received a consent

order with a one-day suspension stayed for one year for operating with a higher-than-permitted ratio of technicians to pharmacists.

### 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 above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 90-85.38(b) because Respondent's acts were in violation of N.C. Gen. Stat. §§ 90-85.40(b) and (f), 90-106, 90-108, 106-122, 106-134, and 106-134.1; 21 N.C.A.C. 46 .1601(a), 46 .1801(a), 46 .1802, 46 .1804, 46 .1810(4), (6), and (7), 46 .2501, 46 .2502(a); and 21 U.S.C. §§ 331, 829, and 842.

2. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on its permit under N.C. Gen. Stat. § 90-85.38.

Based upon the foregoing and with the consent of the parties, IT IS THEREFORE ORDERED THAT:

The permit of Respondent North Carolina CVS Pharmacy, LLC to operate a pharmacy, Permit No. 10711, is hereby SUSPENDED for a period of THREE (3) DAYS. The suspension is stayed for a period of ONE (1) YEAR from the date that this Order is accepted by the Board, upon the following conditions:

1. Respondent shall violate no laws governing the practice of pharmacy of the distribution of drugs;
2. Respondent shall violate no rules or regulations of the Board;


3. Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation and comply with the provisions of this Consent Order;

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

This the 19<sup>th</sup> day of November, 2013.

NORTH CAROLINA BOARD OF PHARMACY

By:



Jack W. Campbell, IV  
Executive Director

North Carolina CVS Pharmacy, LLC, the holder of permit number 10711, 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 Final Consent Order is duly authorized to accept the Final Consent Order on behalf of North Carolina CVS Pharmacy, LLC, and to bind the permit holder.

ACCEPTED AND CONSENTED TO BY:

Erica A. Pierce Date 10-28-13  
North Carolina CVS Pharmacy, LLC  
(Permit No. 10711)

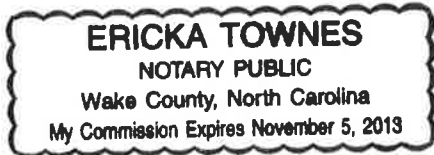
NORTH CAROLINA

Johnston 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: Erica A. Pierce

Date: Oct. 28, 2013

Erica Townes  
Notary Public



My commission expires: Nov. 05, 2013

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REJECTED BY:

\_\_\_\_\_ Date \_\_\_\_\_  
North Carolina CVS Pharmacy, LLC  
(Permit No. 10711)