

2. Respondent Jones is the holder of license number 10748. At all relevant times, Respondent Jones was employed as a staff pharmacist at the Forsyth County Department of Public Health pharmacy.
3. On July 29, 2005, the Board received a complaint from Dr. Tim Monroe alleging that Respondent Jones had dispensed Meridia to Jones's daughter without a prescription. The complainant also alleged that Respondent Jones had dispensed Ritalin and Clonazepam to another patient without a prescription.
4. During an interview with Investigator Smith, Respondent Jones admitted that since 2002, he had dispensed Meridia 10mg, paid for the medication, and delivered it to his daughter without a prescription. Respondent Jones stated that he did this because his daughter was unemployed and had no health insurance. Respondent Jones also stated that his daughter had been prescribed Meridia previously and at the time of the interview, had a legitimate prescription for the medication. Meridia is a schedule IV controlled substance.
5. During an interview with Investigator Smith, Respondent Jones also admitted to dispensing 10 tablets of Ritalin LA 40mg without a prescription to a patient who complained that she had difficulty scheduling an appointment with her doctor in order to obtain a new prescription for Ritalin. The patient had been prescribed Ritalin previously.
6. Respondent Jones did not admit to dispensing clonazepam to a patient without a prescription.
7. The investigation also produced evidence to show that Respondent Foster, the Pharmacist Manager, knew that Respondent Jones had dispensed Meridia to Jones's daughter without a prescription but allowed the activity to continue because Respondent Jones was older

and he was uncomfortable with confronting Respondent Jones. Respondent Foster subsequently reported the activity to Dr. Monroe who reported it to the Board.

8. On November 10 and 17, 2005, Investigator Smith requested information to conduct an audit on Ritalin LA 30mg and 40mg, methylphenidate 10mg and 20mg (Ritalin), and clonazepam .5mg. The audit revealed shortages/overages as follows:

| | |
|----------------------|------------|
| Ritalin LA 30mg | 130 over |
| Ritalin LA 40mg | 8 short |
| methylphenidate 10mg | 273 short |
| methylphenidate 20mg | 1,357 over |
| clonazepam .5mg | 905 short |

The only basis Respondent Foster could provide as a reason for the shortages/overages was possibly because of errors with the pharmacy computer system.

Based on the above findings, the Board concludes as a matter of law:

CONCLUSIONS OF LAW

1. Respondent Jones admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under G.S. 90-85.38.
2. Respondent Foster admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under G.S. 90-85.38.
3. Respondent Jones violated the following statutes and rules when he dispensed medications without a prescription:
 - a. G.S. 90-85.38(a)(6) and (7);
 - b. G.S. 90-85.40;
 - c. G.S. 90-106;
 - d. G.S. 90-108;

- e. G.S. 106-134.1;
 - f. 21 N.C.A.C. 46 .1805;
 - g. 21 U.S.C. 353, 829 & 842; and
 - h. 21 C.F.R. 1306.21.
4. Respondent Foster violated the following statutes and rules when he allowed a pharmacist to dispense medications without a prescription and failed to implement a system of inventory recordkeeping to allow him to detect a shortage of controlled substances:
- a. G.S. 90-85.38(a)(6) and (7);
 - b. G.S. 90-85.40;
 - c. G.S. 90-106;
 - d. G.S. 90-108;
 - e. G.S. 106-134.1;
 - f. 21 N.C.A.C. 46 .1804;
 - g. 21 N.C.A.C. 46 .1805;
 - h. 21 N.C.A.C. 46 .2502;
 - i. 21 U.S.C. 353, 829 & 842; and
 - j. 21 C.F.R. 1306.21.

Based on the foregoing, and with the consent of the parties, IT IS THEREFORE,
ORDERED, as follows:

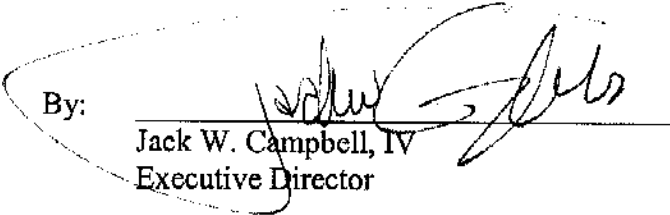
1. Respondent Jones, License No. 10748, is disciplined as follows:
 - a. Respondent Jones is hereby reprimanded;
 - b. Within one (1) year of the Board's approval of this Consent Order, Respondent Jones shall take and pass the Multi-State Pharmacy Jurisprudence Exam and shall report the results to the Board's Executive Director;
 - c. Respondent Jones shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of his practice and compliance with the provisions of this Consent Order.
 - d. Respondent Jones shall violate no laws governing the practice of pharmacy or the distribution of drugs.
 - e. Respondent Jones shall violate no rules and regulations of the Board.
 - f. If Respondent Jones fails to comply with any terms or conditions of this Consent Order, Respondent Jones may be subject to additional disciplinary action by the Board.
2. Respondent Foster, License No. 8094, is disciplined as follows:
 - a. Respondent Foster is hereby cautioned.
 - b. Respondent Foster shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of his practice and compliance with the provisions of this Consent Order.
 - c. Respondent Foster shall violate no laws governing the practice of pharmacy or the distribution of drugs.
 - d. Respondent Foster shall violate no rules and regulations of the Board.

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

This the 17th day of October, 2006.

NORTH CAROLINA BOARD OF PHARMACY

By:



Jack W. Campbell, IV
Executive Director

David Jones, the holder of License #10748, has full knowledge that he has the right to a hearing and to be represented by counsel in this matter. He freely, knowingly, and voluntarily waives such right by entering into this Consent Order on behalf of License #10748. 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 out 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 disciplinary action. The undersigned understands and agrees that this Consent Order will not become effective unless and until approved by the Board.

David Jones, License #10748, accepts Board member Stan Haywood's proposal in this matter.

CONSENTED TO BY: _____

David Jones
License No. 10748

9-25-2006
Date

State of North Carolina
Forsyth County

I, Mark H Eskridge, a Notary Public for the above-named County and State, do hereby certify that David Jones personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 23rd day of September, 2006, by David Jones.

[Signature]
Notary Public

MARK H. ESKRIDGE
NOTARY PUBLIC
STOKES COUNTY, N.C.
My Commission Expires 7-30-2007

Mark H Eskridge
Typed or Printed Notary Name

My Commission Expires 7-30-2007

David Jones, License No. 10748, does not accept the proposed Consent Order in this matter.

By: _____

David Jones
License No. 10748

Date

David Foster, the holder of License #8094, has full knowledge that he has the right to a hearing and to be represented by counsel in this matter. He freely, knowingly, and voluntarily waives such right by entering into this Consent Order on behalf of License #8094. 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 out 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 disciplinary action. The undersigned understands and agrees that this Consent Order will not become effective unless and until approved by the Board.

David Foster, License #8094, accepts Board member Stan Haywood's proposal in this matter.

CONSENTED TO BY: *David Foster* 9/26/06
David Foster Date
License No. 8094

State of North Carolina
Forsyth County

I, Tomnie J. Bowen, a Notary Public for the above-named County and State, do hereby certify that David Foster personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witnessed my hand and official seal

This the 26th day of September, 2006, by David Foster.

Tomnie J. Bowen
Notary Public

Tomnie J. Bowen
Typed or Printed Notary Name

My Commission Expires My Commission Expires August 27, 2008

David Foster, License No. 8094, does not accept the proposed Consent Order in this matter.

By: _____
David Foster Date
License No. 8094