

**BEFORE THE NORTH CAROLINA BOARD OF PHARMACY**

**In The Matter Of:**

<b>Pharmacy Permit Application of</b>	)	
<b>Davis Drug and Specialty</b>	)	
<b>Compounding</b>	)	<b>ORDER DENYING</b>
	)	<b>PERMIT APPLICATION</b>
	)	

**THIS MATTER** came before the North Carolina Board of Pharmacy (“Board”) on the application of Dwain Davis Wilkerson, as pharmacist-manager of Davis Drug and Specialty Compounding, 13478 Carrollton Boulevard, Suite W, Carrollton, VA 23314 (“Petitioner”), to obtain an out-of-state pharmacy permit. This matter was heard on April 21, 2015 by the Board located at 6015 Farrington Rd., Suite 201, Chapel Hill, North Carolina, before Board members McLaughlin, Chesson, Minton, Day, and Mixon. Having heard the evidence presented and assessed the credibility of the testifying witnesses, the Board makes the following:

**FINDINGS OF FACT**

1. In July 2014, Dwain Davis Wilkerson, a pharmacist licensed by the Virginia Board of Pharmacy and the identified pharmacist-manager of Petitioner, filed an application to obtain a North Carolina out-of-state pharmacy permit.
2. The application included a required Pharmacy Services Affidavit, which Dr. Wilkerson signed. By signing the affidavit, Dr. Wilkerson acknowledged his understanding that “under North Carolina law . . . the North Carolina Board of Pharmacy . . . may ‘suspend, revoke, or refuse to grant or renew any permit’ if any person has ‘[m]ade false representations or withheld material information in connection with securing a license or permit.’”

3. By signing the affidavit, Dr. Wilkerson acknowledged understanding that “the information sought in this Affidavit by the Board is material to the Board’s determination of whether to issue a permit to the Applicant Pharmacy.”

4. Question 1 on the Pharmacy Services Affidavit asked: “Has the Applicant Pharmacy, any pharmacist affiliated with the Applicant Pharmacy, or any pharmacy technician affiliated with the Applicant Pharmacy ever been subject to any discipline by any licensing, permitting, or other regulatory authority, federal or state? Discipline includes, but is not limited to, any letter of caution, letter or warning, reprimand, license suspension or revocation, permit suspension or revocation, or registration suspension or revocation.” Dr. Wilkerson answered “No.”

5. In fact, in October 2010, Dr. Wilkerson was found by the Virginia Board of Pharmacy to have been non-compliant with his continuing education requirements for licensure. Dr. Wilkerson acknowledged this violation and consented to a \$250 fine and a requirement that he obtain additional continuing education.

6. Dr. Wilkerson attributed the false statement in the application to LicenseLogix, a White Plains, NY company that purports to provide license application assistance to pharmacies. Dr. Wilkerson testified that LicenseLogix completed the Pharmacy Services Affidavit for his signature, and that he signed it without reading all portions closely. Dr. Wilkerson testified that he no longer employs the services of LicenseLogix.

7. The Board agrees that LicenseLogix provided Dr. Wilkerson with sub-standard services. Even so, LicenseLogix’s failures do not excuse the misrepresentation on the application. Dr. Wilkerson, not LicenseLogix, is the pharmacist-manager required by law to apply for a pharmacy permit. Dr. Wilkerson had a duty to review the affidavit completely, and Dr. Wilkerson signed the affidavit attesting to its truth and accuracy.

8. Also accompanying the July 2014 permit application was a 2012 pre-opening inspection of Petitioner conducted by the Virginia Board of Pharmacy. Board staff advised Dr. Wilkerson that a current, operating inspection of the pharmacy is a prerequisite to obtaining permit.

9. In October 2014, Dr. Wilkerson submitted a new set of application materials. These materials did not disclose significant deficiencies identified by the Virginia Board of Pharmacy during an August 2014 inspection of the Petitioner.

10. In February 2015, Dr. Wilkerson explained in a letter to Board staff that “LicenseLogix indicated on the application that we did not have any inspection deficiencies from our home state, Virginia. This statement was false.” Dr. Wilkerson enclosed the inspection deficiency notice, which included Dr. Wilkerson’s consent to a \$1,500 fine for those deficiencies, as well as his agreement to document actions taken to correct the deficiencies.

11. Again, The Board agrees that LicenseLogix provided Dr. Wilkerson with sub-standard services. Even so, LicenseLogix’s failures do not excuse the misrepresentation on the application. Dr. Wilkerson, not LicenseLogix, is the pharmacist-manager required by law to apply for a pharmacy permit.

#### **CONCLUSIONS OF LAW**

Petitioner “made false representations or withheld material information in connection with securing a license or permit.” N.C.G.S. § 90-85.38(a)(1).

**IT IS, THEREFORE, ORDERED** that Petitioner’s application to obtain an out-of-state pharmacy permit is **DENIED**.

Not earlier than 90 days from the date of this Order, Petitioner may re-apply for an out-of-state pharmacy permit. Any such application must disclose, fully and accurately, all

information required. Moreover, any such application must be accompanied by an inspection report from the Virginia Board of Pharmacy showing that all deficiencies identified in the August 2014 inspection have been corrected and that the pharmacy is otherwise in full compliance with all applicable statutes, rules, and practice standards.

This the 21st day of April, 2015.

NORTH CAROLINA BOARD OF PHARMACY

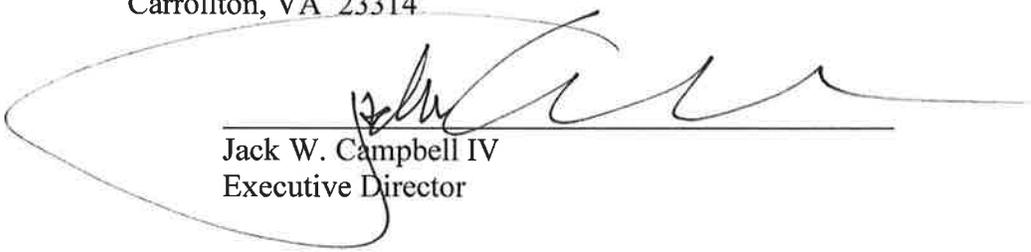
By: \_\_\_\_\_

  
Jack W. Campbell IV  
Executive Director

**CERTIFICATE OF SERVICE**

I certify that on April 13, 2015, I caused a copy of this Order Denying Permit Application to be served on Petitioner by certified mail, return receipt requested at the following address:

13478 Carrollton Boulevard, Suite W  
Carrollton, VA 23314



\_\_\_\_\_  
Jack W. Campbell IV  
Executive Director