

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of: )

HEALTH INNOVATIONS PHARMACY, )  
INC. )

(Permit No. 7705) )  
\_\_\_\_\_ )

**FINAL ORDER ON PETITION TO  
MODIFY CONSENT ORDER**

THIS MATTER was heard on February 21, 2017, by the North Carolina Board of Pharmacy (“Board”), located at 6015 Farrington Road, Suite 201, Chapel Hill, North Carolina, upon the request of Health Innovations Pharmacy, Inc. (“Petitioner”) for modification of a consent order dated October 18, 2016. Board members Minton, Bowman, Day, Graves, Haywood and Mixon heard this matter. After hearing the testimony of witnesses, adjudging the credibility of the witnesses, and receiving evidence, the Board makes the following:

**FINDINGS OF FACT**

1. Petitioner received all required notice of this hearing and/or waived further notice.
2. Petitioner Health Innovations Pharmacy, Inc., located at 295 Pinehurst Avenue, Building 2, Southern Pines, North Carolina, is, and since December 18, 2000, has been, the holder of Permit No. 7705.
3. On October 18, 2016, the Board accepted a Consent Order with Petitioner to resolve allegations that Petitioner violated the Pharmacy Practice Act and its regulations, as well as other laws governing the practice of pharmacy and the distribution of drugs (the “Consent Order”).
4. Among other conditions and restrictions, the Consent Order required Petitioner to comply with the terms and conditions of a Memorandum of Agreement with the United States

Department of Justice, Drug Enforcement Administration (“DEA”), dated May 18, 2016. The Consent Order provided that those terms and conditions would continue until lifted by the Board, even if the DEA terminated some or all of the Memorandum of Agreement.

5. On January 26, 2017, the DEA and Petitioner modified the terms of the Memorandum of Agreement and entered into a replacement amended Memorandum of Agreement.

6. Petitioner has requested that paragraph 1(a) of the Consent Order’s Conclusions Regarding Discipline be amended to require Petitioner to “comply with all of the terms of the Memorandum of Agreement with the United States Department of Justice, Drug Enforcement Administration (‘DEA’), dated May 18, 2016 (the ‘MOA’), as the MOA was amended on January 26, 2017” (proposed addition underlined).

7. The Board has considered the facts presented at the hearing, as well as the facts that the Board previously found in the Consent Order, and has determined that the public health, safety and welfare will be best protected if Petitioner’s request is granted in part and denied in part, as set forth below.

#### **CONCLUSIONS REGARDING PETITION**

1. All parties are properly before the Board, and the Board has jurisdiction over Respondent and the subject matter of this proceeding.

2. Based on the facts presented at the hearing, as well as the facts that the Board previously found in the Consent Order, the Board has determined that the public health, safety and welfare will be best protected if Petitioner’s request is granted in part and denied in part, as set forth below.

IT IS THEREFORE ORDERED that:

1. Unless a Notice of Hearing is issued on or before December 31, 2017 alleging violations of the Pharmacy Practice Act and its regulations by Petitioner, effective on January 1, 2018, the Consent Order shall be modified so that paragraph 1(a) will read as follows:

a. Respondent Health Innovations Pharmacy, Inc. shall comply with all of the terms of the Memorandum of Agreement with the United States Department of Justice, Drug Enforcement Administration (“DEA”), dated May 18, 2016 (the “MOA”) as the MOA was amended on January 26, 2017. The MOA is hereby incorporated by reference in this Consent Order. Furthermore, by virtue of this Consent Order, all of the Terms and Conditions in the MOA shall survive the termination of the MOA and shall continue indefinitely. No sooner than May 18, 2019 (unless the MOA is earlier terminated by the DEA), Health Innovations Pharmacy, Inc. may petition the Board to have some or all of those Terms and Conditions lifted. The Board is not obligated to lift any of those Terms and Conditions in the MOA, and will do so only if Health Innovations Pharmacy, Inc. demonstrates that lifting any Term or Condition would be consistent with the public health, safety and welfare.

2. All of the terms of the Consent Order – including the original, unmodified paragraph 1(a) – shall remain in effect until January 1, 2018. If a Notice of Hearing is issued prior to that date, all of the terms of the Consent Order – including the original, unmodified paragraph 1(a) – shall remain in effect until the Board issues a final order based on the Notice of Hearing.


3. If and when the modified paragraph 1(a) takes effect, all other terms and conditions of the original Consent Order remain in place.

4. Petitioner shall cooperate with the Board, its attorneys, investigators and other representatives in any investigation regarding compliance with the provisions of this Consent Order and Final Order on Petition to Modify Consent Order. Specifically, Petitioner shall be subject to random audits and inspections by Board investigators and shall cooperate with those audits and inspections.

This the 21<sup>st</sup> day of February, 2017.

NORTH CAROLINA BOARD OF PHARMACY

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

  
Jack W. Campbell, IV  
Executive Director

**CERTIFICATE OF SERVICE**

The undersigned certifies that, today, the foregoing document was served on counsel for Petitioner by U.S. mail as follows:

Michael C. Allen, Esq.  
Batten Lee, PLLC  
4141 Parklake Avenue, Suite 350  
Raleigh, North Carolina 27612

By:



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Jack W. Campbell, IV  
Executive Director