

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Samir Khaldi)
(License No. 15765)) FINAL DECISION
)
)

THIS MATTER came on for hearing upon a Second Amended Notice of Hearing issued March 21, 2003 to determine whether or not Samir Khaldi (Respondent) violated North Carolina General Statute §90-85.38(a)(4), (6), (7) and (9), which provides that the Board may issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew a license to practice pharmacy, or require licensees to successfully complete remedial education if the licensee has done any of the following:

“(4) Made false representations in connection with the practice of pharmacy that endanger or are likely to endanger the health or safety of the public, or that defraud any person;

(6) Failed to comply with the laws governing the practice of pharmacy and the distribution of drugs;

(7) Failed to comply with any provision of this Article or rules adopted by the Board;

(9) Been negligent in the practice of pharmacy.”

The Notice set forth specific factual allegations and scheduled a hearing for April 15, 2003. The hearing was conducted at the Board office before Board Members Crocker, Dennis, Haywood and Rogers, with Board Member Haywood presiding. Board member Chater took no part in the hearing or decision in this matter. At the hearing, the Board presented evidence in the form of testimony and exhibits. Respondent was not present and was not represented by counsel. Based upon the record in this proceeding and the testimony and exhibits presented at the hearing, the Board makes the following:

FINDINGS OF FACT

The specific factual allegations are as follows:

1. At all relevant times, Respondent was licensed to practice pharmacy by the Board and was the holder of license number 15765. Respondent was employed, at all relevant times, as a pharmacist at CVS Pharmacy #3880 (Pharmacy) located at 309 East Cornwallis Drive, Greensboro, North Carolina.
2. On April 13, 2001, the Board received a complaint that alleged Respondent had placed several prescriptions on file and had filled multiple prescriptions at the Pharmacy without proper authorization from a medical provider.
3. Upon investigation, it was determined that the following prescriptions, placed on file with the Pharmacy by Respondent, were filled by Respondent without obtaining proper authorization from a medical provider:
 - a. Drysol (dab-o-matic solution, 60 uses), allegedly prescribed by Dr. Vincent Cheek for Riad Khaldi; filled on April 7, 2001;
 - b. Vioxx (25mg, 100 tablets), allegedly prescribed by Dr. Vincent Cheek for Riad Khaldi; filled on April 6, 2001;
 - c. Prevacid (30mg, 100 tablets), allegedly prescribed by Dr. Vincent Cheek for Riad Khaldi; filled on April 7, 2001
 - d. Levsin/SL (.125mg, 100 tablets) allegedly prescribed by Dr. Vincent Cheek for Riad Khaldi; filled on April 7, 2001;
 - e. Humalog (100u/ml), 10 tablets, allegedly prescribed by Dr. Robert Sevier for Jill Williams; filled on March 22, 2001;

and

f. Propoxy-n/APAP, allegedly prescribed by Dr. Herman Sanford for Hamze Hussan; filled on April 4, 2001.

4. The prescriptions described above in sub-paragraphs (a) through (d) were billed to Medicaid.

5. On April 27, 2001, Respondent gave a written voluntary statement in which he stated that he filled multiple prescriptions for his mother on April 6 and April 7, 2001 without obtaining authorization from her treating physician. Respondent acknowledged that one prescription was submitted to Medicaid and that he violated State regulations.

6. The Board sent Respondent a Notice of Prehearing Conference dated November 30, 2001. The Prehearing Conference was scheduled for December 11, 2001; Respondent failed to appear at the Prehearing conference.

7. The Board sent notification to Respondent dated December 17, 2001 that his case would be scheduled for a formal disciplinary hearing unless he chose to surrender his license to the Board by February 11, 2002. The notification was sent to Respondent at 199 Wind Road, Apartment 201F, Greensboro, North Carolina 27405 and was returned by the U.S. Postal Service.

8. The Board sent notification to Respondent dated January 31, 2002 that his case would be scheduled for a formal disciplinary hearing unless he chose to surrender his license to the Board by February 11, 2002. The notification was sent to Respondent at 404 Lodge Drive, Greenwood, South Carolina 29646.

9. On January 31, 2002, Respondent voluntarily surrendered his license to practice pharmacy to the Board. The Board sent notification to Respondent dated February 14, 2002 to the following address: Nadim Aljiisir Street, Jawhara Building, Tripoli, North Lebanon, Beirut, Lebanon.

10. Respondent sent Steve Hudson, Director of Investigations and Inspections for the Board, a letter dated June 18, 2002 in which he requested information regarding what was necessary to reactivate his license. In his letter, Respondent provided Mr. Hudson with an e-mail address to which Mr. Hudson could reply.

11. Mr. Hudson sent Respondent an e-mail reply dated June 19, 2002 in which he instructed Respondent to send a letter to David Work, Executive Director of the Board, requesting to have his case heard before the Board. Mr. Hudson provided Respondent with Mr. Work's mailing address.

12. Respondent sent Mr. Hudson a letter dated August 23, 2002 in which he made a formal request to schedule a Prehearing Conference.

13. The Board sent Respondent a Notice of Prehearing Conference dated November 8, 2002 in which it informed Respondent that the Prehearing Conference was scheduled for November 25, 2002.

14. On November 19, 2002, Respondent contacted Mr. Hudson via e-mail to inform him that he would not be available to appear at the November 25, 2002 Prehearing Conference. Mr. Hudson sent Respondent an e-mail reply on November 22, 2002 and requested a telephone number so that the Prehearing Conference could be conducted via teleconference. Respondent failed to reply to Mr. Hudson's request. Respondent failed to appear at the November 25, 2002 Prehearing Conference.

CONCLUSION OF LAW

1. The actions of Respondent as described above constitute violations of the following statutes and rules:

- a. G.S. §90-85.38(a)(4),(6), (7) and (9);
- b. G.S. §§ 90-106(c) and 90-108(a)(2);
- c. G.S. §§106-122(1) and 106-134.1;
- d. 21 N.C.A.C. 46 .1805;
- e. 21 U.S.C. §§ 331(a), 353(b), 829(b) and 842(a)(1); and
- f. 21 C.F.R. 1306.21(a).

IT IS, THEREFORE, ORDERED, that:

1. Respondent's license, number 15765, shall be revoked.
2. The Board shall contact staff at the Division of Medical Assistance, public integrity unit, regarding possible Medicaid fraud related to the facts set out above.

166227

This the 26th day of September, 20 03.

NORTH CAROLINA BOARD OF PHARMACY

By: *David R. Work*

David R. Work
Executive Director

NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

MEDICAL SOLUTIONS OF AMERICA, INC.)
(Pharmacy Permit No. 7709)ORDER SUMMARILY
SUSPENDING PERMIT

Pursuant to G.S. §150B-3(c) and 21 N.C.A.C. 46.2006(b), the North Carolina Board of Pharmacy (Board) finds that the protection of the public health, safety and welfare requires emergency action and hereby summarily suspends Pharmacy Permit No. 7709 issued to Medical Solutions of America, Inc. (Respondent), effective upon service of this Order. Respondent shall immediately cease dispensing prescription medications, dispensing and delivering devices and medical equipment, providing device and medical equipment services to patients, and all other activities constituting the practice of pharmacy at the following locations, pending issuance by the Board of a Final Agency Decision:

- (1) 3209-144 Gresham Lake Road, Raleigh, North Carolina.
- (2) Suite E, 945 West Andrews Avenue, Henderson, North Carolina.
- (3) 518 Owen Drive, Fayetteville, North Carolina.

A hearing before the Board regarding the charges against Respondent shall be conducted at 2:00 p.m. on April 15, 2003 at the Board's office located at 104-C Carrboro Plaza, Highway 54 West Bypass, Carrboro, North Carolina. Respondent will be served with a Notice of Hearing in accordance with G.S. §150B-38(b) containing the allegations to be heard.

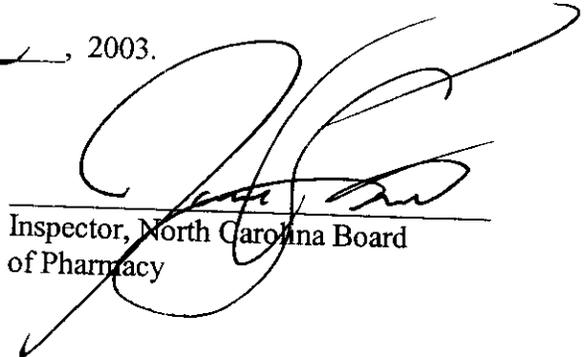
By Order of the Board, this the 31st day of March, 2003.

NORTH CAROLINA BOARD OF
PHARMACYBy: David R. WorkDavid R. Work
Executive Director

RETURN OF SERVICE

The undersigned hereby certifies that the foregoing Order Summarily Suspending Permit was served upon Respondent by personal service.

This the 31 day of March, 2003.



Inspector, North Carolina Board
of Pharmacy