

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In The Matter Of:

Reciprocity Application of)
Joseph Larry Custer) **ORDER DENYING**
) **RECIPROCITY**
)
)

THIS MATTER came before the North Carolina Board of Pharmacy (“Board”) concerning the application of Joseph Larry Custer (“Petitioner”) to reciprocate a license to practice pharmacy. This matter was heard on February 19, 2013 by the Board located at 6015 Farrington Rd., Suite 201, Chapel Hill, North Carolina, before Board members Minton, Marks, McLaughlin, Chesson, 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. Petitioner holds a license to practice pharmacy in Ohio, which he seeks to reciprocate to North Carolina.
2. As part of the reciprocity application process, Petitioner submitted a National Association of Boards of Pharmacy Official Application for Transfer of a Pharmacy License (“NABP Application”). Question 2 of the NABP Application’s Professional History section asked: Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority? Petitioner’s response to this question was “No.”

4. Petitioner's signature on the NABP application "affirm[ed]" under oath that he had "read the foregoing paragraphs and the information therein is complete, true, and correct. I understand that any false statements made by me in this Application may be punishable by law."

5. Also as part of the reciprocity application process, Petitioner submitted a North Carolina Board of Pharmacy Reciprocity Data Questionnaire. Question 7 on that document asks "Have you at any point in your licensure as a pharmacist been charged by any Board of Pharmacy y on matters which could have produced an action on your license? Any and all actions taken against your license must be disclosed regardless of when the action was taken. This includes any pending actions." Petitioner's response to this question was "Yes." Petitioner further stated on the application that he "[u]nknowingly purchased drugs from one of my distributors that were later determined to be samples with removed labeling."

6. Petitioner's signature on the questionnaire "affirm[ed] that I have answered the foregoing questions, and that my answers are true and correct. I understand that any false information given by me may subject me to refusal to be licensed, disciplinary action by the North Carolina Board of Pharmacy, and/or any license obtained shall be void and of no effect."

7. In 1986, Petitioner's license to practice pharmacy in Ohio was disciplined by the Ohio State Board of Pharmacy. The Ohio Board found that petitioner, as "responsible pharmacist," had repeatedly purchased misbranded prescription drugs from a handful of wholesalers and dispensed them to patients. The Ohio Board concluded that Petitioner's conduct "constitutes gross immorality," "constitutes dishonesty in the practice of pharmacy," and "constitutes willfully violating" various provisions of the Ohio Pharmacy Practice Act. The Ohio Board suspended Petitioner's license to practice pharmacy for two (2) years and imposed a \$3,250 fine. The Ohio Board stayed the suspension and \$2,000 of the fine pending Petitioner's

compliance with restrictions on his license, including taking and passing the Ohio Board's jurisprudence examination.

8. Petitioner's answer to Question 2 of the NABP Application's Professional History section was false.

9. Petitioner's answer to Question 7 of the North Carolina Reciprocity Data Questionnaire was false.

10. Petitioner testified that he "focused" on the "revoked, suspended, restricted, terminated" language of the NABP Application question instead of the "entire question." The Board finds this explanation not credible, inasmuch as the Ohio Board order states plainly that it "suspends" Petitioner's license to practice pharmacy. Moreover, Petitioner testified that he inquired of neither NABP nor the Board to resolve any questions he may have had about the language of the NABP Application's question.

11. Petitioner testified that the conduct found by the Ohio Board to violate Ohio law was unknowing and unintentional. The Board finds this explanation not credible. Petitioner presented such arguments to the Ohio Board of Pharmacy, which concluded based on the evidence before it that Petitioner's conduct was a "willful" violation of Ohio law.

CONCLUSION 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 reciprocate a license to practice pharmacy to North Carolina is **DENIED**.

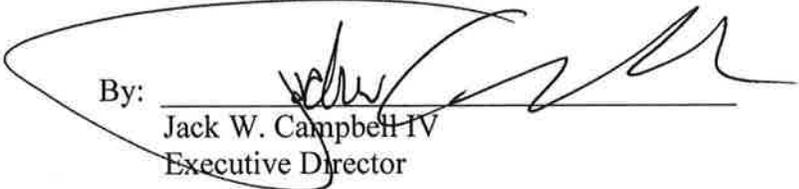
Petitioner may make a new application to reciprocate a license to North Carolina no earlier than twelve (12) months from the date of this Order.

This Order contains no promise or guarantee, express or implied, that any subsequent application will be approved. Any subsequent application will be assessed, when received, for compliance with North Carolina law, including complete and full disclosure of all information sought in the application materials.

This the 19th day of February, 2013.

NORTH CAROLINA BOARD OF PHARMACY

By: _____


Jack W. Campbell IV
Executive Director

CERTIFICATE OF SERVICE

I certify that on February 20, 2013, I caused a copy of this Order Denying Reciprocity to be served on Petitioner by certified mail, return receipt requested at the following address:

[REDACTED]



Jack W. Campbell IV
Executive Director

cc: Custer reciprocity file

Kyle Parker, Executive Director
Ohio State Board of Pharmacy
77 S High Street Room 1702
Columbus, OH 43215