

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Rebecca Fire  
(License No. 16748)

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**CONSENT ORDER OF  
DISCIPLINE**

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THIS MATTER came on to be considered at a prehearing conference (hereinafter, "Conference") before a member of the North Carolina Board of Pharmacy (hereinafter, "Board") pursuant to 21 N.C.A.C. 46.2008. This Conference was scheduled for July 20, 2009 and, after appropriate notice, was heard on that day by Board member L. Stan Haywood at the offices the Board. The Respondent Rebecca Fire (License No. 16748) (hereinafter, "Respondent" or "Fire") was present and was represented by Counsel George Hearn. Counsel Sarah Phillips represented the Board. Members of the Board's investigative staff and other Board counsel were also present at the Conference.

Respondent has agreed to waive a formal hearing in the above-referenced matter. Both parties stipulate and agree to the findings of fact and conclusions of law recited herein and to the order of discipline imposed. By her consent, Respondent also stipulates that she waives her right to appeal this Consent Order or challenge in any way the sufficiency of the findings of this Order. Based upon the consent of the parties, the Board hereby enters the following:

**FINDINGS OF FACT**

1. The North Carolina Board of Pharmacy is a body duly organized under the laws of North Carolina and is the proper body for this proceeding under the authority granted it in Chapter 90 of the General Statutes of North Carolina, and the rules and regulations promulgated thereunder.

2. Respondent is, and was at all relevant times referred to herein, a pharmacist licensed to practice pharmacy in the State of North Carolina with License No. 16748. Respondent is and was, at all relevant times referenced to herein, subject to the rules and regulations of the North Carolina Board of Pharmacy and the laws of the State of North Carolina.

3. Between about May 2008 and September 2008, the pharmacist-manager of CVS Pharmacy, Permit No. 6548, located at 505 Smokey Park Highway, Asheville, North Carolina (the "Pharmacy"), was on leave. The Pharmacy was required to have an acting or temporary pharmacist-manager when the regular pharmacist-manager was out from May 2008 to September 2008.

4. Respondent knew that the regular pharmacist-manager was taking a leave of absence and understood that she would be taking responsibility of the Pharmacy in her absence. The Board finds and concludes that Respondent was, in fact, acting or temporary pharmacy-manager from May 2008 through September 2008. Although Respondent testified that she had never accepted the duties of a pharmacist-manager, the Board finds it unreasonable and unlawful for a pharmacist to accept responsibility for managing a permit holder, yet disclaim the duties imposed on such a manager by North Carolina law.

5. On August 14, 2008, CVS improperly dispensed Clonidine 0.1 mg to a patient who did not have a prescription for that drug, failing to exercise appropriate professional care and judgment in dispensing the prescription.

6. On the date of the error, CVS and Respondent, as acting pharmacist-manager, failed to adequately supervise technicians.

7. From time to time during Respondent's tenure as acting pharmacist-manager, CVS and Respondent, as acting pharmacist-manager, had more than two technicians working

under the supervision of one pharmacist without Board authorization and failed to adequately supervise technicians. CVS and its agents testified that they mailed a waiver request to the Board. However, the Board did not receive the request. No waiver was ever issued by the Board, and licensees and permit holders are not permitted to vary from the pharmacist-technician ratio unless and until they actually receive a waiver from the Board. The Board finds and concludes that it is unreasonable and unlawful for a licensee or permit holder to allow more than two technicians to work under the supervision of one pharmacist, simply based on a pending waiver request. Respondent acknowledges that, although CVS never received a waiver of the technician to pharmacist ratio from the Board, she still knowingly violated the statute.

8. During 2008, CVS and Respondent, as acting pharmacist-manager, failed to display the current permit. When the investigator visited the store on October 23, 2008, no one knew where the 2008 permit was located and the current permit had not previously been displayed during 2008.

#### **CONCLUSIONS OF LAW**

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

2. Respondent's conduct, as set out in the findings of fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 90-85.38 because Respondent's acts were in violation of N.C. Gen. Stat. §§ 90-85.15A(c), 90-85-21(a), 90-85.23, 90-85.38(a)(6), (7) and (9), and 90-85.40(f); and 21 N.C.A.C. 46 .1601(e), 46 .1804(a) and 46 .2501.

## CONCLUSIONS REGARDING DISCIPLINE

Based upon the foregoing Findings of Fact and Conclusions of Law, and with the consent of Respondent, the Board enters the following:

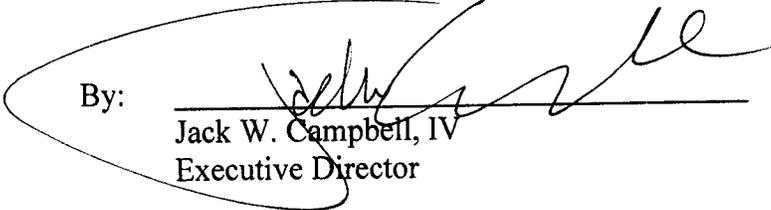
### CONSENT ORDER OF DISCIPLINE

Respondent Fire, License No. 16748, is hereby formally REPRIMANDED by the Board for failing to perform the pharmacist-manager duties of ensuring the safe delivery of drugs, the display of the Pharmacy permit, and that the Pharmacy not permit more than two technicians to work under the supervision on one pharmacist, all in violation of N.C. Gen. Stat. §§90-85.15A(c), 90-85-21(a), 90-85.23, 90-85.38(a)(6), (7) and (9), and 90-85.40(f); and 21 N.C.A.C. 46 .1601(e), 46 .1804(a), and 46 .2501.

This the 15<sup>th</sup> day of September, 2009.

NORTH CAROLINA BOARD OF PHARMACY

By:

  
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Jack W. Campbell, IV  
Executive Director

Rebecca Fire, the holder of license number 16748, has full knowledge that she has the right to a formal hearing, at which she would have the right to be represented at her expense by counsel, in this matter. The undersigned freely, knowingly and voluntarily waives such right by entering into this Consent Order.

The undersigned understands and agrees that by entering into this Consent Order, she certifies that she has read the foregoing Consent Order and that she voluntarily consents to the terms and conditions set forth therein and relinquishes any right to judicial review of Board actions which may be taken concerning this matter.

The undersigned further understands that should she 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.

The undersigned understands that she has the right to have counsel of her choice review and advise her with respect to her rights and this Consent Order, and represents that she enters this Consent Order after consultation with her counsel or after knowingly and voluntarily choosing not to consult with counsel.

ACCEPTED AND CONSENTED TO BY:

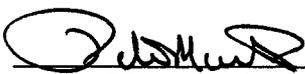
  
REBECCA FIRE (License No. 16748) Date 9.14.09

NORTH CAROLINA

Buncombe COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that the following person(s) personally appeared before me this day, and each acknowledged the due execution of the foregoing document: Rebecca Fire

Date: 9-14-09

  
Notary Public  
Peter Martin

My commission expires: April 23, 2011