

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In The Matter Of:

**Randall H. Floyd
(License No. 9029)**

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ORDER REINSTATING LICENSE

THIS MATTER came on for hearing upon request of Randall H. Floyd (Petitioner) for reinstatement of his license to practice pharmacy in North Carolina. Petitioner's request was heard on March 21, 2006, and on June 27, 2006, by the North Carolina Board of Pharmacy (Board) located at 6015 Farrington Rd., Suite 201, Chapel Hill, North Carolina. Consideration of the Petitioner's request was heard based upon records in this proceeding, and the testimony and other materials of record presented at the hearing. Having heard the evidence presented and assessed the credibility of the testifying witnesses, the Board makes the following:

FINDINGS OF FACT

1. At all relevant times, Petitioner was licensed to practice pharmacy by the Board and was the holder of license number 9029. At all relevant times prior to July 21, 2004, Petitioner was employed as a pharmacist at K-Mart Pharmacy in Conover, North Carolina. After leaving employment with K-Mart, Petitioner was employed at Eckerd Drug in Hickory, North Carolina as a staff pharmacist.

2. On or before July 28, 2004, the Board received information from an unidentified pharmacist alleging that Petitioner had ordered a large quantity of Alprazolam 1mg, approximately half of which was missing soon after the order was delivered.

3. Based upon the information received, Board Investigator Ken Wilkins commenced an investigation of Petitioner. Investigator Wilkins interviewed the K-Mart Pharmacy District Manager who advised him that Petitioner was no longer employed with K-Mart as of July 21, 2004.

4. On August 4, 2004, Investigator Wilkins traveled to the K-Mart pharmacy where Petitioner had been previously employed and interviewed pharmacist Steve Stinson. Stinson informed Investigator Wilkins that on June 28, 2004, he overheard Petitioner ordering an excessive amount of Alprazolam 1mg. Specifically, he heard Petitioner order 4-1,000 count bottles of Alprazolam 1mg. Stinson informed Investigator Wilkins that he subsequently checked the Alprazolam stock and found approximately 2,500 dosage units in stock at the time Petitioner placed the order. Stinson informed Investigator Wilkins that the 4,000 units ordered by Petitioner arrived on June 29, 2004, and on June 30, 2004, Stinson noticed 2 of the 1,000 count bottles missing from stock. However, Stinson informed Investigator Wilkins that several days later, approximately 1,300 dosage units were returned to the pharmacy stock.

5. On November 2, 2004, Investigator Wilkins performed an audit of Alprazolam 1mg at the K-Mart pharmacy which covered the time period from May 1, 2004 through November 1, 2004. The audit revealed a shortage of 951 dosage units.

6. On November 5, 2004, Investigator Wilkins interviewed Petitioner. Petitioner admitted to ordering a large amount of Alprazolam on or about June 28, 2004 while employed at K-Mart pharmacy, as he had planned to be on vacation the following two weeks and wanted to assure that the pharmacy had adequate inventory. He stated that the 2-1,000 count bottles Stinson thought were missing had been placed in the rear of the pharmacy where a pharmacist floater such as Stinson might not have seen them.

7. In a written statement dated November 9, 2004, Petitioner denied taking any of the Alprazolam 1mg described above.

8. On July 8, 2005, Agent C. Cook of the Banner Elk Municipal Drug Task Force notified the Board that Petitioner had been arrested in Avery County, North Carolina on the following charges:

a. 05 CR 050502 – Possession of drug paraphernalia (small metal pipe) and possession of marijuana (Schedule IV controlled substance) up to ½ oz;

b. 05 CR 050503 – Feloniously maintaining a vehicle used for keeping and selling Schedule III and Schedule IV controlled substances (Vicodin and Xanax) and felonious possession with intent to manufacture, sell and deliver 68 caplets of Vicodin (Schedule III controlled substance); and

c. 05 CR 050504 – Felonious possession with intent to manufacture, sell and deliver 50 caplets of Xanax (Schedule IV controlled substance).

9. On or about July 11, 2005, Eckerd staff informed Investigator Wilkins that Petitioner had admitted to dispensing unauthorized prescriptions for Hydrocodone, Triazolam and Alprazolam under actual patient names. Hydrocodone is a Schedule III controlled substance. Triazolam and Alprazolam are Schedule IV controlled substances. Petitioner admitted to Eckerd staff that he generated the prescriptions for his personal use and that the patients had no knowledge of his actions. Petitioner also admitted that he billed these prescriptions to the patients' insurance companies.

10. On or about July 11, 2005, Investigator Wilkins interviewed Petitioner. Petitioner admitted to the diversion described above and stated that he sometimes consumed the substances up to four times a day. He also informed Investigator Wilkins that he diverted the medications at

a K-Mart in Conover and two Eckerd pharmacies in Hickory, North Carolina. Petitioner stated that the marijuana and pipe found in his car belonged to a man to whom he'd given a ride.

11. On July 8, 2005, the Board issued an Order summarily suspending Petitioner's license. On July 11, 2005, Petitioner was personally served with a copy of the Order, and on the same date, Petitioner waived his right to a hearing before the Board.

12. The total number of dosage units Petitioner diverted from various pharmacies is as follows:

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|-------------|------------|
| Hydrocodone | 8,100 |
| Alprazolam | 3,600 |
| Triazolam | <u>840</u> |

TOTAL: 12,540

13. On July 20, 2005, Petitioner entered into a contract with the North Carolina Pharmacist Recovery Network (NCPRN). On or about July 18, 2005, Petitioner entered into a long-term residential substance abuse treatment program, the Center for Professional Excellence; Petitioner completed the program on October 14, 2005. Petitioner is currently engaged in continuing care therapy sessions and all urine drug tests have been negative.

14. On April 26, 2006, Petitioner pleaded guilty to one count of driving while impaired in connection with the arrest described in Paragraph 8. He was sentenced to a 60-day suspended jail sentence, ordered to pay court costs and a \$100 fine, and to complete 24 hours of community service.

15. On April 26, 2006, Petitioner entered into a deferred prosecution agreement on the possession charges stemming from the arrest described in Paragraph 8. He was sentenced to 12 months of supervised probation, ordered to pay court costs and a \$500 fine, ordered to

complete 100 hours of community service, and other conditions, including continuing in his drug treatment program.

16. Petitioner has paid the costs and fines, and completed the community service, described in paragraphs 14 and 15.

CONCLUSIONS OF LAW

17. Petitioner violated the following statutes and rules when he diverted controlled substances for his personal use:

- a. G.S. §90-85.38(a)(4), (6), and (7);
- b. G.S. §90-85.40;
- c. G.S. §90-106;
- d. G.S. §90-108;
- e. G.S. §106-122;
- f. G.S. §106-134.1;
- g. G.S. §58-2-161(b);
- h. 21 N.C.A.C. 46 .1805;
- i. 21 U.S.C. §§331, 353, 829 and 842; and
- j. 21 C.F.R. 1306.21.

18. Petitioner has demonstrated that he has been in a period of successful recovery and compliance with his NCPRN contract. The North Carolina Board of Pharmacy, in its discretion, concludes that Petitioner can safely resume the practice of pharmacy, subject to the conditions set forth below.

IT IS, THEREFORE, ORDERED that Petitioner's license shall be reinstated subject to the following conditions:

1. Petitioner shall successfully complete his PRN contract, which shall be renewed to extend 5 years from the date of reinstatement.
2. Petitioner shall advise the Board promptly in writing of any change of address or change in practice status.
3. Petitioner shall obtain prior approval of all employment as a pharmacist from the Board's Executive Director.
4. Petitioner shall not serve as pharmacist manager of any pharmacy for a period of 1 (one) year. At the conclusion of 1 (one) year, Petitioner may petition the Executive Director to have this restriction lifted.
5. Petitioner shall not serve as a preceptor of pharmacy students.
6. Petitioner may not be employed as a pharmacist more than 40 hours per week, on the average.
7. Petitioner shall be subject to unannounced drug screens to be performed at his expense by the Board or its agents, and shall supply urine, blood, hair, nail, or any other bodily fluid or tissue sample required for the screening. Results of the screening shall not disclose the presence of any controlled substances, prescription drug, or alcohol, which was not previously prescribed for Petitioner by a practitioner acting in the normal course of medical treatment of Petitioner.
8. Petitioner shall authorize PRN and any treating physician or other health care provider to release Petitioner's medical records to the Board.

9. Prior to the commencement of employment as a pharmacist, Petitioner shall submit documentation of his current continuing education hours to the Board's Executive Director.

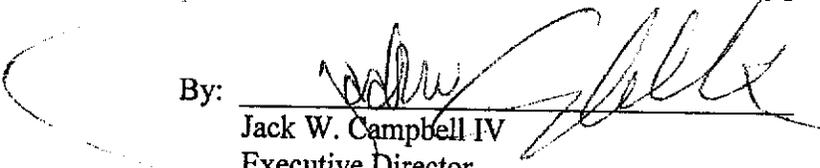
10. If Petitioner fails to comply with any terms or conditions of the Order, Petitioner may be subject to additional disciplinary action by the Board.

11. Petitioner shall violate no laws governing the practice of pharmacy or the distribution of drugs.

12. Petitioner shall violate no rules or regulations of the Board.

This the 27th day of June, 2006.

NORTH CAROLINA BOARD OF PHARMACY

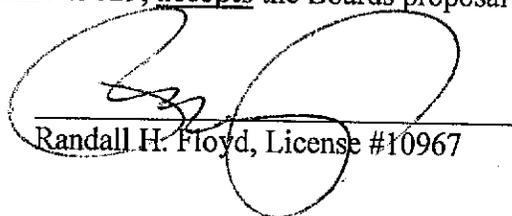
By: 

Jack W. Campbell IV
Executive Director

The undersigned understands and agrees that by entering into this Reinstatement Order, he certifies that he has read the foregoing Reinstatement Order and that he voluntarily consents to the terms and conditions set out therein. The undersigned further understands that should he violate the terms and conditions of the Reinstatement Order, the Board may take additional disciplinary actions. The undersigned understands and agrees that this Reinstatement Order will not become effective unless and until approved by the Board.

Randall Herbert Floyd, License #9029, accepts the Boards proposal in this matter.

CONSENTED TO BY:


Randall H. Floyd, License #10967

7-3-06
Date

RECEIVED
JUL 04 2006
M.C. Board of Examiners